

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.)
) CRIMINAL NO.: JKB-16-0363
 GERALD JOHNSON, et al.,)
)
 Defendant.)
 _____)

Transcript of Proceedings
Before the Honorable James K. Bredar
Monday, May 10th, 2021
Baltimore, Maryland

APPEARANCES:

For the Plaintiff:

Peter J. Martinez, AUSA

Christina Hoffman, AUSA

For Defendant Gerald Johnson:

Paul F. Enzinna, Esquire

Jeffrey B. O'Toole, Esquire

For Defendant Kenneth Jones:

Alan R.L. Bussard, Esquire

For Defendant Marquise McCants:

Jenifer Wicks, Esquire

Christopher C. Nieto, Esquire

Christine T. Asif, RPR, FCRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

P R O C E E D I N G S

THE COURT: Good morning. Be seated, please.

This is the United States versus Johnson, et al. -- you may be seated. This is United States versus Johnson, et al., JKB-16-363. We're here pursuant to an order of the United States Court of Appeals for the 4th Circuit directing the Court to conduct a hearing under the law set out in *United States versus Remmer*, a United States Supreme Court opinion.

The brief history of this matter is this case came on for trial in late 2017 bridging over into 2018. On the 9th of January, 2018, an event occurred, which caused the Court to pause the trial and conduct some inquiries. In the midst of that or near the end of those inquiries, counsel for Mr. Johnson in particular, but joined by the other counsel, requested that the Court conduct a hearing pursuant to *Remmer*. The Court having made the preliminary inquiries that it thought were appropriate in the circumstances, and having satisfied itself that there was not cause for such concern to the point that a full blown *Remmer* hearing needed to be conducted, denied the request.

Subsequently, the defendants were convicted and sentenced. They appealed their convictions to the Court of Appeals. The panel that heard the appeal ruled two to one that the Court had erred in not conducting a *Remmer* hearing as requested by defense counsel after the event that occurred on

1 the 9th of January.

2 Accordingly, the Court of Appeals remanded the case
3 with instructions for the Court to conduct a post-verdict
4 *Remmer* hearing, at which time it would be the burden of the
5 United States to demonstrate that the events of January 9
6 carrying over into January 10 did not adversely impact the
7 capacity of the seated jurors to continue their work with
8 fairness and impartiality.

9 Accordingly, we will now conduct that hearing. And
10 those persons who served as jurors and alternate jurors will
11 be brought to the courtroom one at a time and they will be
12 questioned by the Court. The questions have been set and
13 determined by the Court in advance of the proceeding, after
14 extensive consultation with counsel, input from counsel, in
15 some cases the acceptance of counsel's request and
16 suggestions, in other instances the Court having denied those
17 suggestions and requests.

18 The matter will proceed in this fashion: In a
19 moment we'll begin. The first juror who will be questioned
20 will be that person who was serving as Juror No. 4 on the 9th
21 of January, 2018. We have to be careful in terms of how we
22 describe this juror because, in fact, someone else originally
23 served as Juror No. 4, but that person was excused sometime
24 after the trial began. And the individual who we will be
25 questioning this morning then transitioned from status as an

1 alternate juror to being Juror No. 4.

2 And then, of course, at the end of the inquiries on
3 the 9th and 10th of January, this gentleman who was then
4 serving as Juror No. 4 was excused from the jury, no longer
5 served on this jury. And yet another person, now a third
6 person, was designated Juror No. 4, continued to sit in the
7 case. And that person will also be questioned as a part of
8 this process, as will all of those jurors who deliberated and
9 all those who were still serving as alternates.

10 So, it's a bit confusing, three different persons
11 were serving as Juror No. 4 at different times during this
12 trial. But the Juror No. 4 who we will question first was
13 that person who was serving as Juror No. 4 on the 9th and 10th
14 of January, and then was subsequently excused. I can't
15 remember for sure, he may have been excused on the 9th. And
16 my clerk confirms actually he was excused the 9th. So let's
17 leave it that way, did not serve as Juror No. 4 on the 10th.

18 Once we have completed the questioning of the person
19 who was then serving as Juror No. 4, then we will proceed
20 through the other jurors in their numerical order, 1, 2, 3, 4,
21 5, so forth, up through 12. And then we will proceed to the
22 alternates and question them in order.

23 One juror is not in the United States, that's Juror
24 No. 12. Juror No. 12 will not be questioned in the same order
25 as the rest. We've made special arrangements for her to be

1 questioned. That will occur at 9:30 a.m. tomorrow morning via
2 video and audio connection, a Zoom connection from her
3 residence in Geneva, Switzerland. Those arrangements are in
4 place and we will execute them tomorrow.

5 Mr. Martinez, I think one question is pending with
6 respect to the Swiss juror, and I would appreciate it if you
7 and your colleagues would seek an answer to this. It would be
8 my hope and intention to place Juror No. 12 under oath over
9 Zoom tomorrow. I don't see that as absolutely essential to
10 the Court's purposes and inquiry here. And if the diplomatic
11 authorities ask that because of certain treaty understandings
12 or other details of the relationship with the government of
13 Switzerland, that the Court not do that, then we can proceed
14 with her just through what will be a less formal interview and
15 still make our record on her recollections of these events.

16 I think the record would be better if I was able to
17 put her under oath in the same way that I intend to put all of
18 the other persons testifying in this matter under oath. But
19 please be in a position to advise first thing tomorrow morning
20 as to whether the State Department and the people in
21 international affairs in the Justice Department have a concern
22 in that regard.

23 MR. MARTINEZ: I will, Your Honor. And I can tell
24 the Court now that what I anticipate being told is that so
25 long as she participates in this proceeding voluntarily -- and

1 I believe we've already crossed that bridge, she's chosen to
2 participate voluntarily -- then there's no issue with the
3 Court placing her under oath. And if she voluntarily chooses
4 to give sworn testimony, neither the Swiss government nor ours
5 would have any issue with proceeding in that fashion. So I
6 will confirm that and notify the Court tomorrow morning.

7 THE COURT: All right. Well, that's a unique issue
8 on just one side of this matter. I don't think the defendants
9 have any standing to address the issue. The Court's desire is
10 to conduct the matter as thoroughly, as completely, and as
11 lawfully as possible. But when it comes to a matter of
12 international relations such as this one, the third branch of
13 government appropriately defers to the executive in guiding us
14 so that we do not, through this judicial proceeding, somehow
15 run afoul of our treaty obligations or otherwise impair our
16 relationship with a foreign government.

17 Okay. So we'll get an answer to that first thing
18 tomorrow. We will --

19 MR. ENZINNA: Your Honor --

20 THE COURT: -- have the jurors come into the
21 courtroom through the side door. They'll appear one at a time
22 from the jury stand. They'll be sworn. I will ask them the
23 questions that have been disclosed to counsel in advance.

24 Then before the juror is excused, I will stop and we
25 will turn to these telex devices. And through them I will

1 have a private, on the record discussion with counsel and see
2 whether counsel for the Government or counsel for any
3 defendant asks that I ask -- put a follow-up question to a
4 juror. And I'll hear what that follow-up question is and then
5 I'll make a determination as to whether I think it's
6 appropriate.

7 If I think it is, then we'll come off the private
8 channel, come back on to the regular courtroom channel where
9 everyone can hear. I'll put the question to the juror and
10 hear the answer. And we'll keep going and see if that
11 generates a request for more follow-up questions. And I'll
12 rule on those until we get to the end of that process.

13 Then once we're finished with that particular juror,
14 then that juror will be escorted from the courtroom through
15 the same door that they entered. We'll call for the next
16 juror, who is in -- each subsequent juror is being held in a
17 staging area behind this courtroom. They'll be brought in one
18 at a time, just like a conveyor belt, on to the next one and
19 we'll question that juror.

20 The jurors, upon arrival at the courthouse this
21 morning were greeted by courthouse staff. They were moved to
22 the jury assembly area on the 4th floor of this courthouse.
23 Fortunately, there are no juries being selected today in this
24 courthouse. There is a jury trial otherwise underway, but it
25 doesn't intersect with this proceeding at all.

1 The jurors are being held in the jury assembly area
2 under instructions not the speak with each other. And they
3 are being observed 100 percent of the time. And when they
4 move within the courthouse, they are being escorted by court
5 staff or by court security officers, first to the holding area
6 behind this courtroom and then into this courtroom. Then when
7 it's time for them to leave once they've been excused a court
8 security officer will escort them to the courthouse entrance
9 and send them on their way.

10 Let the record also reflect that the public has
11 every opportunity to view and listen to this proceeding. But
12 we are conducting this proceeding in the midst of the COVID
13 pandemic. And, accordingly, we continue to have special
14 measures in place to protect the health and well-being of
15 everyone who participates in a court proceeding, to
16 accommodate that need in this particular proceeding, I have
17 elected to open another courtroom, courtroom 7A, two floors
18 above this one.

19 That's where the public can assemble and watch these
20 proceedings. They are being transmitted there by camera, a
21 live camera feed from this courtroom and live audio feed. And
22 there, of course, is a court staff person supervising
23 proceedings in courtroom 7A. And members of the press,
24 members of the public are permitted to be there and
25 participate.

1 Now, the public will not be able to hear the private
2 discussions that occur over the telex devices, as is sort of
3 standard practice for a bench conference. They can't hear a
4 bench conference either and the telex devices are intended to
5 supplant or replace a bench conference.

6 Last of all, let the record reflect that all three
7 defendants are present this morning.

8 Mr. Johnson, are you present?

9 DEFENDANT JOHNSON: Yes, sir.

10 THE COURT: Mr. Jones, are you present?

11 DEFENDANT JONES: Yes, sir.

12 THE COURT: And, Mr. McCants, are you present?

13 DEFENDANT McCANTS: Yes.

14 THE COURT: And the defendants are seated in the
15 gallery area of the courtroom, which of course is not
16 functioning as a gallery. The courtroom is closed except to
17 direct participants in the proceeding. That, I think, takes
18 care of all the preliminary matters.

19 Mr. Enzinna, you had a question?

20 MR. ENZINNA: Well, Your Honor, with respect to
21 Juror No. 12, I just want to make -- say for the record that
22 the defendants would object to her testifying any way other
23 than under oath. And I think Your Honor's statement that the
24 defendants don't have standing to object to that is
25 incorrect.

1 THE COURT: Thank you Mr. Enzinna.

2 Okay. Are we ready for Juror No. 4?

3 THE CLERK: Yes.

4 THE COURT: Okay. Let's bring him in. My clerk
5 points out to me that under our COVID procedures we also have
6 a public access telephone line open to the courtroom via AT&T
7 conference call. And so persons can listen into this
8 proceeding. They can't see it, but they can listen in by
9 dialing in on a telephone number, which is published on the
10 court's website in the manner that we allow with respect to
11 all of our nonsealed proceedings during COVID. Now, that
12 telephone line will also be silenced during the private telex
13 proceedings, just as would be the case with the bench
14 conference.

15 THE CLERK: Thank you.

16 THE COURT: Let me, Mr. Enzinna -- before you leave,
17 Ms. Smith -- I take the point about standing as to oath. I
18 was concerned, Mr. Enzinna, that your position was going to be
19 that she could not be placed under oath because of positions
20 you took previously in terms of the Court's potentially
21 involving you in a violation of Swiss law. But I didn't
22 anticipate that your position would be different from that
23 this morning. Thinking about that for a moment, I think
24 you're actually right that you would have standing to raise
25 that issue.

1 So let me withdraw that observation and conclude
2 that counsel and the defendants do have standing. That
3 doesn't determine what the Court's ruling is going to be. I
4 may well proceed without Juror No. 12 under oath if there is
5 an objection from the diplomatic authorities, just as part of
6 the effort to create as much of a record as I possibly can in
7 the circumstances that we are in. But I reconsider the ruling
8 on the question of whether or not there's standing. On that
9 issue I think there is.

10 All right. Let's bring him in.

11 (Juror No. 4 entered the courtroom.)

12 THE WITNESS: Good morning.

13 THE COURT: Good morning, if you would raise your
14 right hand. Turn all the way around you can face us.
15 Perfect. Thank you.

16 Ms. Smith.

17 THE CLERK: Yes Your Honor. Good morning, sir.

18 JUROR NO. 4,
19 called as a witness, being first duly sworn, was examined and
20 testified as follows:

21 THE WITNESS: Yes, ma'am.

22 THE CLERK: Thank you, you may have a seat.

23 EXAMINATION

24 BY THE COURT:

25 Q. Just have a seat and look right up here, sir. Keep your

1 voice up, if you can. The first question I have for you is
2 are you the person who was serving as Juror No. 4 on January
3 9, 2018, during the trial of a case that was called United
4 States versus Gerald Johnson, et al., the case number was
5 JKB-16-363, are you that person?

6 **A.** Yes, sir.

7 **Q.** Good morning.

8 **A.** Hi, Your Honor.

9 **Q.** Good morning to you.

10 **A.** Good morning.

11 **Q.** So then let me state for the record that between November
12 27, 2017 and January 9, 2018, until you were excused, you
13 served as a juror in the trial of the United States versus
14 Gerald Johnson, et al., case number JKB-16-363. Prior to
15 November 27 you served as an alternate juror in the same
16 matter, do you remember that?

17 **A.** Yes, sir.

18 **Q.** I was the judge who presided during that trial, we were in
19 a different courtroom, but I was the judge. Do you remember
20 that?

21 **A.** That is correct.

22 **Q.** Okay. Also here with us today are the lawyers who
23 represent the parties in the case. Starting with Assistant
24 U.S. Attorney Martinez and Assistant U.S. Attorney Hoffman,
25 they represent the government. Mr. Enzinna and Mr. O'Toole

1 who represent Mr. Johnson. Mr. Bussard who represents
2 Mr. Jones. And Ms. Wicks and Mr. Nieto, who represent Mr.
3 McCants. Once again, do you remember your service as a juror
4 in this case?

5 **A.** Yes, sir.

6 **Q.** And you do confirm that you were serving as Juror No. 4 on
7 January 9, 2018?

8 **A.** Yes, sir.

9 **Q.** The trial lasted for many weeks. During the trial some
10 concerns were raised, such as defendants passing notes,
11 looking at jurors, and having access to juror information
12 through the juror selection process known as voir dire. The
13 Court addressed these concerns without pausing the trial.
14 Then on January 9, 2018, an event occurred which caused the
15 trial to briefly pause.

16 In the presence of at least some of the rest of the
17 jurors and the alternates, you may have expressed concern that
18 persons, perhaps the defendants' family members, might be
19 taking pictures of the jurors as they passed through the
20 vestibule at the entrance to the courtroom and the jury room.
21 We understand that you may have thought that this was a
22 significant event, and may have said something to the effect
23 of, this is really serious, to your fellow jurors. A few
24 minutes later you were interviewed by court staff about that
25 event. You were later excused from further service on the

1 jury. Today I have some questions about January 9, 2018.

2 The lawyers I introduced earlier are not here to ask
3 you questions, only the Court will do that, only I will do
4 that. But they are here to represent the interests of their
5 clients and to propose follow-up questions that the Court may
6 or may not ask you in its discretion.

7 So next question: Do you remember this event that
8 I'm referring to on January 9?

9 **A.** I do, sir.

10 **Q.** Do you recall making statements indicating your belief or
11 concern that persons might be taking pictures of jurors?

12 **A.** Yes.

13 **Q.** Do you recall if any other jurors shared your concerns
14 regarding potential picture taking?

15 **A.** I came back into the chamber and -- where we were gathered
16 and I did express that and I believe someone -- one of my
17 fellow jurors reported to the -- I forgot her name, that was
18 escorting us and, yes, so I believe they might have said that
19 to the girl that escorted us.

20 **Q.** Okay. So you've kind of answered my next question, but
21 I'm going to ask it any way, did anyone including yourself
22 suggest that these concerns should be reported to the Court?

23 **A.** Yes.

24 **Q.** Consistent with what you just said?

25 **A.** Correct.

1 Q. Okay. Now, please tell us what you remember seeing and
2 saying that day?

3 A. As we were walking and then entering the area that we
4 should be in, members outside of the hallway, I saw them with
5 phone facing us taking pictures, I'm not sure if it was taking
6 pictures or videotaping. That I cannot tell you, but I did
7 observe they were in the act of taking pictures.

8 Q. And tell me a little bit more about how you were able to
9 make that determination?

10 A. Through observation while I was walking back into the
11 chamber that we were supposed to be residing in. So I just
12 happened to make an observation of that. And it did raise
13 some concerns.

14 Q. Did you participate in discussion among the jurors about
15 the possibility of picture taking?

16 A. Briefly. Didn't get too involved into it. Just briefly
17 saying I observed they were taking pictures of us. But no
18 further details or did not get into it of discussing.

19 Q. Okay. So to the best of your ability, can you tell us
20 what you remember what was said by you and by others. Tell
21 us, you know, what you remember if you can, about these
22 discussions.

23 A. Not much. It did not go any farther. I just expressed
24 that, you know, I observed they were taking pictures of us.
25 And I said, you know, I'm not comfortable with that. But

1 beyond that I don't recall if -- I don't think we went any
2 farther than that. And then I guess one of my colleague juror
3 referenced -- made mention to the -- I forgot her name, that
4 was escorting us. And at that point it pretty much was
5 silent. I got a phone call the next day I am excused from
6 being a juror.

7 Q. Thank you, Juror No. 4.

8 A. I don't remember any other further discussion. I don't
9 think it went any further than that.

10 Q. Thank you.

11 A. You're welcome, sir.

12 Q. Now I'm going to ask for your patience for a moment while
13 I'm going to have a private conversation with the lawyers that
14 you won't be able to hear. Just going to hear this light
15 noise machine, which I'm sure you're going to remember from
16 the trial, because it's very annoying.

17 A. Yeah, I understand.

18 Q. Okay. So you won't be able to hear, but you'll see that
19 I'm talking with them, but you won't be able to hear. So will
20 you be patient for just a minute?

21 A. Certainly.

22 Q. Thank you, sir.

23 A. You're welcome.

24 (Bench conference on the record.)

25 THE COURT: Turn the husher down a little bit. One

1 more.

2 Mr. Martinez, are you able to hear me?

3 MR. MARTINEZ: Faintly, Your Honor.

4 THE COURT: Okay. Let me get a little closer to the
5 mike, turn my volume down. Mr. Martinez, can you hear me?

6 MR. MARTINEZ: I can now, sir.

7 THE COURT: Loud and clear.

8 MR. MARTINEZ: Yes, sir.

9 THE COURT: Ms. Hoffman, can you hear me loud and
10 clear?

11 MS. HOFFMAN: Yes, sir.

12 THE COURT: Mr. Enzinna, can you hear me loud and
13 clear?

14 MR. ENZINNA: I can hear you now, yes.

15 THE COURT: Mr. O'Toole.

16 MR. O'TOOLE: Yes, I can.

17 THE COURT: Mr. Bussard, can you hear me? Mr.
18 Bussard?

19 MR. BUSSARD: Very blurred, but yes I can hear
20 you.

21 THE COURT: Well, I want to make sure you can hear
22 me well.

23 MR. BUSSARD: I can hear you now.

24 THE COURT: Thank you. Ms. Wicks, can you hear me?

25 MS. WICKS: Yes, I can hear you.

1 THE COURT: Mr. Nieto, can you hear me?

2 MR. NIETO: Yes, Your Honor.

3 THE COURT: Mr. Martinez, do you have any requested
4 follow-up questions for the juror who was serving as Juror No.
5 4 on January 9?

6 MR. MARTINEZ: Not at this time, but we do reserve
7 the right to suggest follow-up if the Court agrees to ask
8 follow-up questions proposed by defense counsel.

9 THE COURT: Yes. And I should have verified that
10 the court reporter can hear me loud and clear. And she's
11 nodding her head.

12 Yes. Mr. Enzinna, your proposed follow-up
13 questions, please.

14 MR. ENZINNA: Your Honor --

15 THE COURT: Can't hear you, Mr. Enzinna. Get a
16 little closer to the microphone. You have to be right up on
17 the mike and then use a soft voice.

18 MR. ENZINNA: I apologize. I have two proposed
19 follow-up questions. One is I would like the Court to ask him
20 whether he indicated to the other jurors that it was serious
21 or significant. Second question --

22 THE COURT: Hold on a second, let me get my notes
23 here. Yes, sir, go ahead, second proposed question.

24 MR. ENZINNA: The second proposed question is the
25 additional question 7, which we proposed in our -- in our

1 modifications and additions, proposal was that he would be
2 asked whether had he remained a juror this would have affected
3 his ability to decide the case.

4 THE COURT: Thank you. And you've got your record
5 on that issue. I will not ask the question that you propose
6 as your second follow-up question for the reason that this
7 juror did not serve as a deliberating juror in the case. And,
8 accordingly, I do not find that I would benefit from hearing
9 what his experience was subsequently. We've addressed this in
10 the paper rulings.

11 I will ask the first proposed follow-up question and
12 will do that now.

13 Mr. Bussard, do you have any proposed follow-up
14 questions?

15 MR. BUSSARD: Your Honor, Mr. Enzinna in his first
16 proposed question is specific as to the word serious. I --
17 when the Court asked the question "What did you say?" He just
18 said I don't think I said much, it was very brief. So he
19 didn't really say the words that he communicated to the
20 others, but I will stand by Mr. Enzinna's question.

21 THE COURT: Okay. Very good. So no follow-up
22 questions requested from Mr. Bussard.

23 Ms. Wicks, do you have any additional follow-up
24 questions requested?

25 MS. WICKS: No, Your Honor, I just join with the

1 previous request.

2 THE COURT: Thank you. That's noted. We'll drop
3 the private channel and go back to the courtroom record.

4 (The following proceedings were had in open court.)

5 THE COURT: Juror No. 4 -- are you ready, Ms. Smith?

6 All right. Well, the portal -- the public access
7 line is optional, it's not technically required. It's
8 something we do as a matter of convenience for the public
9 during COVID, but we otherwise have public access assured
10 through the opening up of 7A. Accordingly, Ms. Smith, perhaps
11 you can work with IT at the next break and see if we can get
12 that problem sorted out, but we're going to go ahead and
13 proceed without the public access line up and operating at the
14 moment.

15 **BY THE COURT:**

16 **Q.** So Juror No. 4, when you had your encounter with your
17 fellow jurors, after seeing what you saw outside the jury
18 room, do you remember whether you described to your fellow
19 jurors your experience or what you were perceiving in any
20 particular way, for instance, did you perhaps use the word
21 "serious," this is serious guys, this is a serious matter or
22 perhaps use words like "this is significant, this is a
23 significant matter." Now, I don't want to put words in your
24 mouth, but I do want to try to probe and jog your memory a
25 little bit if it's possible to do so. What do you remember

1 about that?

2 **A.** I don't think I expressed those languages of serious or
3 significant. I think it was more of concern.

4 **Q.** Concern?

5 **A.** Yeah.

6 THE COURT: Okay. Thank you, sir. We'll go back on
7 to the private line.

8 (Bench conference on the record.)

9 THE COURT: Mr. Martinez, do you have any additional
10 follow-up questions?

11 MR. MARTINEZ: No, Your Honor.

12 THE COURT: Mr. Enzinna, do you?

13 MR. ENZINNA: No, Your Honor.

14 THE COURT: Mr. O'Toole, do you?

15 MR. O'TOOLE: No, sir.

16 THE COURT: Mr. Bussard, do you?

17 MR. BUSSARD: No, Your Honor.

18 THE COURT: Mr. Wicks, do you? Ms. Wicks, I'm sorry
19 I'm going to do that repetitively because I go into autopilot.
20 Ms. Wicks, do you have any follow-up questions?

21 MS. WICKS: I do not.

22 THE COURT: Mr. Nieto, do you?

23 MR. NIETO: No, Your Honor.

24 THE COURT: May Juror No. 4 be excused, Mr.
25 Martinez?

1 MR. MARTINEZ: Yes, Your Honor.

2 THE COURT: Mr. Enzinna?

3 MR. ENZINNA: Yes, Your Honor.

4 THE COURT: Mr. O'Toole?

5 MR. O'TOOLE: Yes, Your Honor.

6 THE COURT: Mr. Bussard?

7 MR. BUSSARD: Yes, sir.

8 THE COURT: Ms. Wicks?

9 MS. WICKS: Yes, Your Honor.

10 THE COURT: Mr. Nieto?

11 MR. NIETO: Yes, Your Honor.

12 THE COURT: We'll return to the open channel in the
13 courtroom.

14 (The following proceedings were had in open court.)

15 THE COURT: Thank you, sir, we appreciate your
16 returning to court and being faithful to your summons to come
17 back. With the Court's thanks you are once again excused and
18 you may depart. Ms. Smith will see you out of the courtroom.

19 THE WITNESS: Thank you, sir.

20 THE COURT: Thank you, sir.

21 (Juror No. 1 entered the courtroom.)

22 THE COURT: Good morning, ma'am.

23 THE WITNESS: Good morning.

24 THE COURT: You can put your belongings on that
25 chair right there.

1 THE WITNESS: This one?

2 THE COURT: Yes, ma'am. Please take a seat. Turn
3 so you can see me clearly, but keep your face near that
4 microphone. You're doing it perfectly already without
5 instructions.

6 THE CLERK: Please raise your right hand.

7 JUROR NO. 1,
8 called as a witness, being first duly sworn, was examined and
9 testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Thank you.

12 EXAMINATION

13 BY THE COURT:

14 Q. Good morning to you.

15 A. Good morning.

16 Q. You served as Juror No. 1 in the trial of United States
17 versus Johnson, et al., case number JKB-16-363 back in late
18 2017 and early 2018; is that correct?

19 A. Yes.

20 Q. Between November 20 and January 25, 2018, you served as a
21 juror in the trial of United States versus Gerald Johnson, et
22 al., case number JKB-16-30363; true?

23 A. Yes.

24 Q. I was the judge who presided during that trial?

25 A. Yes, that's true.

1 Q. We were in a different courtroom, we weren't in this
2 courtroom, but I was the judge; correct?

3 A. Correct.

4 Q. Okay. So also here with us today, in addition to me, are
5 the attorneys who represent the parties in this case.
6 Assistant U.S. Attorney Martinez, Assistant U.S. Attorney
7 Hoffman who represented the government. Mr. Enzinna, Mr.
8 O'Toole who represented Mr. Johnson, and still do. Mr.
9 Bussard who represents Mr. Jones. All the way over your right
10 shoulder there. And Ms. Wicks and Mr. Nieto, who represent
11 Mr. McCants.

12 Once again, do you remember your service as a juror in
13 that case?

14 A. Yes.

15 Q. That trial lasted for many weeks. During the trial some
16 concerns were raised, such as defendants passing notes,
17 looking at jurors, and having access to juror information
18 through the juror selection process known as voir dire. The
19 Court addressed these concerns without pausing the trial.

20 Then on January 9, 2018, an event occurred which caused
21 the trial to briefly pause. One of your fellow jurors, in the
22 presence of at least some of the rest of the jurors and
23 alternates, expressed concern that persons, perhaps a
24 defendant's family members, might be taking pictures of the
25 jurors as they passed through the vestibule at the entrance to

1 the courtroom and the jury room. We understand that juror may
2 have seen this as a significant event. A few minutes later,
3 you were interviewed by court staff about that event.

4 A day later, on January 10, 2018, I spoke to the jury in
5 the courtroom and said one or more jurors had a concern that
6 perhaps someone outside of the jury room, in the courtroom
7 vestibule or courtroom hallway, had photographed or otherwise
8 captured the images of jurors. This matter was investigated
9 after that report was received. The investigation included
10 the examination of a relevant smart phone, a camera type
11 device in the possession of a relevant individual. That
12 investigation revealed that there were no images, films,
13 videos of the sort that I've referred to captured on that
14 telephone.

15 Today I have some questions for you about the events of
16 January 9, 2018. Specifically, I need your assistance in
17 learning whether the events of that day impacted your ability
18 to continue to be a fair and impartial juror for the remainder
19 of the trial.

20 The lawyers I introduced earlier are not here to ask you
21 questions, only the Court, me, will do that. But the lawyers
22 are here to represent the interests of their clients and to
23 propose follow-up questions to me that I may or may not ask in
24 my discretion.

25 As you respond to my questions, please be careful not to

1 tell us about the jury's deliberations on guilt or innocence,
2 or about how you reached your verdict. I don't want to hear
3 about that.

4 Do you remember this event that I'm referring to on
5 January 9?

6 **A.** Yes.

7 **Q.** Did you see anyone engaged in any action that suggested
8 that they were taking pictures of the jurors?

9 **A.** No.

10 **Q.** Did you hear any juror make statements indicating his or
11 her belief that persons might be taking pictures of jurors?

12 **A.** Yes.

13 **Q.** Okay. If so, what do you remember hearing?

14 **A.** I just remember -- I don't know specifically which juror
15 it was, but I do remember someone expressing concern that they
16 believed that someone in the audience was taking pictures of
17 us as we were coming in and out of the courtroom.

18 **Q.** Okay. So you've sort of anticipated my next question
19 which is, do you recall which jurors raised concerns regarding
20 potential picture taking?

21 **A.** No, I don't remember which juror.

22 **Q.** Okay. Did anyone, including yourself, suggest that these
23 concerns should be reported to the Court?

24 **A.** Yes.

25 **Q.** Did you hear or participate in discussion among the jurors

1 about the possibility of picture taking?

2 **A.** Yes.

3 **Q.** Can you remember what was said?

4 **A.** I basically was concerned, just like everyone else, for my
5 safety and well-being. So we all decided to come forward and
6 let everyone know what this juror expressed.

7 **Q.** In responding to the next questions, I'm going to ask --
8 I'm going to again ask you to draw a line between events that
9 occurred prior to the start of your deliberations, and events
10 that happened after you began deliberations. By
11 deliberations, I mean that point in the trial where no more
12 evidence was presented, the lawyers had made their arguments,
13 and I had read the jury instructions to you. That's the point
14 when deliberations began. And I don't want to hear anything
15 about that. Just the matters that came before that. So all
16 of your answers to these questions should be limited to events
17 that occurred and things that you thought or felt before you
18 began deliberations. To reiterate, in your answers to these
19 questions, you should not tell us anything about what
20 happened, what was said, what you thought or what you felt
21 after deliberations began. Are we good on that?

22 **A.** Yes.

23 **Q.** Okay. After any discussion about possible picture taking
24 on January 9 and 10, did you feel intimidated by anything that
25 had occurred?

1 **A.** Personally, I wouldn't say intimidated. Like I said, I
2 just felt like it was a issue, like maybe we couldn't have
3 been -- I guess you could say intimidated then, if my picture
4 was being taken I was definitely concerned.

5 **Q.** Let me ask you this question then, were you able to remain
6 an impartial juror and were you able to keep an open mind as
7 the trial continued after that?

8 **A.** Oh, yes. Absolutely.

9 **Q.** Do you believe that the events of January 9 and January
10 10, 2018, left you unable to continue to serve as a fair and
11 impartial juror in the case, or unable to fully consider the
12 evidence and arguments presented by both sides with an open
13 mind?

14 **A.** No. You're saying -- no I didn't feel like it made me not
15 have a open mind after that.

16 **Q.** You felt you continued to have an open mind after that?

17 **A.** Yes.

18 **Q.** Any doubt in your mind about that?

19 **A.** No.

20 **Q.** Thank you. Now, the next part of this I'm going to have a
21 private discussion with the lawyers. And I'm going to do it
22 over this little electronic device. And you're not going to
23 be able to hear what's going on. Instead, you're going to
24 hear that annoying -- remember our noise making machine?

25 **A.** Yes.

1 Q. That's the thing you remember for sure; right?

2 A. Yeah.

3 Q. We're going to turn it on again, so you can't hear, but
4 we're going to have a private discussion outside of your
5 hearing. And then I'm going to talk to you further after
6 that.

7 A. Okay.

8 THE COURT: Okay. Go on to the private channel.

9 (Bench conference on the record.)

10 THE COURT: Mr. Martinez, do you have any follow-up
11 questions?

12 MR. MARTINEZ: I do, Your Honor. In light of this
13 juror's answer to question 11, in which she first said that
14 she didn't feel intimidated and then said, I guess you can say
15 intimidated, we would propose the Court ask the juror whether
16 the curative statement that the Court gave on January 10th of
17 2018 to the effect of this matter has been investigated, a
18 relevant smart phone camera device has been examined -- the
19 Court has already read the statement. The substance of the
20 question we would like the Court to ask is whether that
21 curative statement helped this juror put the events of January
22 9th behind her.

23 THE COURT: Thank you. Mr. Enzinna, do you have any
24 proposed follow-up questions?

25 MR. ENZINNA: Yes, I do, Your Honor. But first I

1 object to the follow-up question proposed by Mr. Martinez.
2 Because as he pointed out, the Court has already reminded the
3 juror about the quote, unquote, investigation. I don't think
4 it needs to be re-asked, I don't think it should be re-asked,
5 I think it places undue influence on that. And if it is
6 re-asked, I think it should be asked in such a way that the
7 juror is reminded of the flaws in that investigation,
8 including, for example, the fact that only one camera was
9 examined.

10 THE COURT: Thank you, Mr. Enzinna. I'm going to
11 sustain the defendant's objection and not ask the government,
12 I think that in context it's clear what the juror intended to
13 say.

14 Mr. Enzinna, go ahead.

15 MR. ENZINNA: Yes, as far as follow-up questions,
16 first of all, as we said in our papers that we filed, the
17 Court has asked the juror whether she could remain impartial
18 without explaining to the juror what impartial means. And I
19 think there is a significant difference between the ordinary
20 understanding of the word impartial as being open minded and
21 the definition of that term for 6th Amendment purposes, which
22 includes the notion that the juror has only considered the
23 evidence put forward in the trial and that this has not
24 influenced the juror. Therefore, I think that the juror
25 should be asked whether -- as we proposed, whether after the

1 event she was able to put it out of her mind or whether she
2 continued to think about it.

3 THE COURT: Thank you, Mr. Enzinna. Do you have any
4 other questions?

5 MR. ENZINNA: And I think that's all, Your Honor.

6 THE COURT: Thank you, Mr. Enzinna.

7 Mr. Bussard, do you have any?

8 MR. BUSSARD: Nothing further.

9 THE COURT: Ms. Wicks, do you have any?

10 MS. WICKS: No, thank you.

11 THE COURT: Thank you, Ms. Wicks.

12 The Court declines to inquire of the juror further
13 in the manner that Mr. Enzinna proposes. I have watched the
14 juror's demeanor. I have watched her body language, listened
15 carefully not just to the answers that she supplied, but also
16 to all of the nonverbal cues that she has projected, including
17 visual cues while testifying. My interpretation is that she
18 does understand the Court's use of language such as
19 impartiality, fairness, open-mindedness and so forth. We've
20 blended those terms together through the question that has
21 been proposed. And in her own way she has answered.

22 She did at one point make reference to intimidation.
23 At first she steered away from that word, then she steered
24 back to that word saying, I guess you could say intimidated.
25 But more what I took from her total message was an expression

1 of concern. Once someone had raised the possibility that
2 pictures were being taken, she was concerned. She also
3 indicated some generalized concern throughout this trial, as
4 one would expect any person to have after they heard the
5 evidence that was presented here.

6 Most significant part of her testimony in the
7 Court's view, though, came as I continued to ask questions,
8 and then she became quite emphatic that she remained open
9 minded, that she did not have difficulty retaining her open
10 mind. She said or implied that she was able to be fair and
11 impartial. Her words said that much, but her body language
12 and the intensity with respect to how she expressed that view
13 is what is persuasive to the Court. I'm satisfied with the
14 answers that have been generated to this point by this juror,
15 I'm satisfied that we have learned what her mental status was.
16 There being no pending follow-up questions, she will now be
17 excused. Back to the --

18 MR. ENZINNA: Your Honor --

19 THE COURT: Is someone speaking?

20 MR. ENZINNA: Before we end I would like to say that
21 to the extent the Court is making its decision making here on
22 its observations and what it called visual cues, I would
23 object to the fact that the Court has instructed all the
24 jurors, so far only two of them, to face the Court directly
25 and not to face us so that we are -- we don't have access to

1 those things.

2 THE COURT: Let the record reflect that this juror
3 is currently sitting in the witness box, as she has been
4 during her testimony. I would say that her position is that
5 she is at -- if the judge is seated at the south end of the
6 courtroom, if the gallery is at the north end, if counsel are
7 seated in the well facing south, this juror is seated on the
8 stand facing west. It is true that when the juror has gone to
9 answer her questions she has looked sometimes directly at the
10 Court. She's also then looked back to her right or more to
11 what I describe to the northwest, to the microphone.

12 She's seated probably ten feet away from Mr. Enzinna
13 and Mr. Nieto. Maybe 12 feet from Ms. Wicks. Probably 15 to
14 16 feet from Mr. Bussard. Probably 15 feet from Mr. Martinez
15 and 20 feet from Ms. Hoffman. She has in front of her the
16 normal plexiglas barriers that are equipped throughout our
17 COVID-equipped courtrooms. The barrier of the jury box comes
18 up to somewhere between elbow and shoulder height on her.
19 There is a computer monitor on the stand, but it has been
20 folded so that it is flat and is below the level of her right
21 shoulder.

22 That's the scene, as best I can describe it, that
23 she is situated in. As she has answered her questions, I
24 believe that her upper body positioning, how she has expressed
25 herself with emphasis, at the moments that I saw it, are quite

1 clear to anyone who is in the courtroom, including persons who
2 are off to her right shoulder. And more important, though, is
3 the volume with which she expressed her views, and her tone of
4 voice. It's from that mostly, that I drew the inference as to
5 the certainty that she continued her duties after the events
6 of January 9 with impartiality and mostly from her perspective
7 with an open mind. That's what she stressed the most.

8 Okay. We'll go ahead and excuse the juror.

9 (The following proceedings were had in open court.)

10 THE COURT: As it turns out, we have no additional
11 questions for you. We sincerely appreciate your coming back
12 to court these three years later and speaking to us about that
13 event, and you are now excused. The Court clerk will take you
14 out. Thank you so much, ma'am.

15 THE WITNESS: Thank you.

16 (Juror No. 2 entered the courtroom.)

17 THE COURT: You can turn around this way, ma'am.
18 Good morning to you. Please raise your -- we have a lot of
19 preparation steps, sorry, get that microphone covered. Now
20 we're ready.

21 THE WITNESS: Good morning.

22 THE COURT: Okay. Good morning to you. During
23 COVID everything moves at probably half speed. And you've
24 probably experienced that in your own life and certainly true
25 here. So my apologies. But now we're ready. You can remain

1 seated but would you raise your light hand?

2 THE WITNESS: Pardon me?

3 THE COURT: Would you raise your right hand, we're
4 going to put you under oath.

5 Go ahead, Ms. Smith.

6 THE CLERK: Yes, Your Honor.

7 JUROR NO. 2,
8 called as a witness, being first duly sworn, was examined and
9 testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Thank you.

12 EXAMINATION

13 BY THE COURT:

14 Q. Get my paperwork straight up here. There we go. In the
15 trial of United States versus Gerald Johnson, case number
16 JKB-16-0363, you served as Juror No. 2?

17 A. Uh-huh.

18 Q. Is that true?

19 A. Yes.

20 Q. Between November 20, 2017 and January 25, 2018, you served
21 as a juror in the trial of United States versus Gerald
22 Johnson, et al., case number JKB-16-0363, I was the judge who
23 presided during that trial, do you remember me?

24 A. Oh, absolutely.

25 Q. Okay. And so we were in a different courtroom?

1 **A.** Uh-huh.

2 **Q.** But it's the same judge, okay. Also here with us today
3 are Assistant U.S. Attorney Martinez, and Assistant U.S.
4 Attorney Hoffman representing the government.

5 **A.** Yes.

6 **Q.** Mr. Enzinna and Mr. O'Toole representing Mr. Johnson. Mr.
7 Bussard -- you can turn around take a look at them. Mr.
8 Bussard representing Mr. Jones. And also over your right
9 shoulder, Ms. Wicks and Mr. Nieto representing Mr. McCants,
10 they were not in the trial, but they represent Mr. McCants
11 now.

12 **A.** Yes.

13 **Q.** Are you with me?

14 **A.** Yes.

15 **Q.** Okay. Do you remember your service as a juror in this
16 case?

17 **A.** Most definitely.

18 **Q.** The trial lasted for many weeks. During the trial some
19 concerns were raised, such as defendants passing notes,
20 looking at jurors, and having access to juror information
21 through the juror selection process known as voir dire. The
22 Court addressed these concerns without pausing the trial.

23 Then, on January 9, 2018, an event occurred which
24 caused the trial to briefly pause. One of your fellow jurors,
25 in the presence of at least some of the rest of the jurors and

1 alternates, expressed concern that persons, perhaps a
2 defendants' family members, might be taking pictures of the
3 jurors as they passed through the vestibule at the entrance to
4 the courtroom and the jury room. We understand that juror may
5 have seen this as a significant event. A few minutes later,
6 you were interviewed by court staff about that event.

7 **A.** Yes.

8 **Q.** A day later, on January 10, 2018, I spoke to the jury in
9 the courtroom and said, one or more jurors had a concern that
10 perhaps someone outside of the jury room in the courtroom
11 vestibule or courtroom hallway had photographed or otherwise
12 captured the images of jurors. This matter was investigated
13 after that report was received. The investigation included
14 the examination of a relevant smart phone, camera-type device
15 in the possession of a relevant individual. That
16 investigation revealed that there were no images, films,
17 videos of the sort I have referred to captured on that
18 telephone.

19 **A.** Yes, I do remember that.

20 **Q.** Today, I have some questions for you about the events of
21 January 9, 2018. Specifically, I need your assistance in
22 learning whether the events of that day impacted your ability
23 to continue to be a fair and impartial juror for the remainder
24 of the trial?

25 **A.** No.

1 Q. The lawyers I introduced earlier are not here to ask you
2 questions, only the Court -- only me -- will do that. But
3 those lawyers are here to represent the interests of their
4 clients and propose follow-up questions that Court -- me --
5 may or may not ask you in its discretion. As you respond to
6 my questions, please be careful not to tell us about the
7 jury's deliberations on the defendants' guilt or innocence, or
8 about how you reached your verdict.

9 Now, do you remember this event on January 9, 2018?

10 A. Yeah, I couldn't have told you the date, but yes I do
11 remember the incident.

12 Q. Did you see anyone engaged in any action that suggested
13 that they were taking pictures of the jurors?

14 A. No.

15 Q. Did you hear any jurors make statements indicating -- let
16 me start that over, I said plural I should have made it
17 singular, I'm going to back up. Did you hear any juror make
18 statements indicating his or her belief that persons might be
19 taking pictures of jurors?

20 A. I don't recall if it was -- if that specifically was
21 mentioned. I know all of the jurors had noticed family
22 members coming in and out and so on. But as far as the
23 picture taking, I don't recall anyone coming in and saying
24 that they saw that.

25 Q. Tell us as best you're able what you do remember hearing.

1 **A.** Just that we did notice that people were looking at us.
2 And several people, and I have to include myself in that, were
3 feeling a little uncomfortable. But as far as picture taking,
4 absolutely not, saw no evidence of that.

5 **Q.** Do you recall which jurors raised concerns regarding
6 potential picture taking?

7 **A.** Gosh, I don't remember anybody's -- just the one that I
8 can recall. But, again, I could pick him out, but I don't
9 recall his name.

10 **Q.** What did he look like?

11 **A.** I believe he was perhaps from south Asia or somewhere. He
12 had dark hair and a dark complexion, but -- this morning when
13 I came in, it was hard to recognize anybody with their masks.
14 Some people said hello, I said, oh, hi. But I don't recall
15 the name. I'm sorry.

16 **Q.** Okay. Did anyone, including yourself, suggest that these
17 concerns should be reported to the Court?

18 **A.** There was nothing happening. I mean, nobody said anything
19 to us as we walked in. And as I said, I saw nobody holding
20 camera here, there, or trying to hide it or anything. And,
21 you know, the Marshals were always watching us come in and
22 out. It didn't -- I don't think people were worried about it.
23 It just was like, oh, I wonder if that's somebody's mother or
24 this that and the other.

25 **Q.** Okay. My questions are going to start sounding redundant,

1 but we have to do this in a certain way, so just bear with me,
2 all right?

3 **A.** Sure.

4 **Q.** Did you hear or participate in discussion among the jurors
5 about the possibility of picture taking?

6 **A.** No. No.

7 **Q.** And can you remember anything about that that was being
8 said that you haven't told us about already?

9 **A.** Well, we -- I do remember when that person left the jury
10 and an alternate came in. And we all kind of looked at each
11 other like, oh, boy, something's up. But no, not the jurors
12 discussing that.

13 **Q.** Okay. Now, in responding to the next questions, I'm going
14 to again ask you to draw a line between events that occurred
15 prior to the start of your deliberations and events that
16 happened after you began deliberations. By deliberations, I
17 mean that point in the trial when no more evidence was
18 presented, the lawyers had made their arguments, and I had
19 read the jury instructions to you. That's the point when
20 deliberations began.

21 **A.** Uh-huh.

22 **Q.** And I don't want to hear anything about that. Just the
23 matters that came before that. So all of your answers to
24 these questions should be limited to events that occurred and
25 things that you thought or felt before you began

1 deliberations. To reiterate, in your answers to these
2 questions, you should not tell us anything about what
3 happened, what was said, what you thought, or what you felt
4 after deliberations began?

5 **A.** Okay.

6 **Q.** After any discussion about possible picture taking on
7 January 9 and 10, did you feel intimidated by anything that
8 had occurred?

9 **A.** No.

10 **Q.** Were you able to remain an impartial juror, and were you
11 able to keep an open mind as the trial continued after that?

12 **A.** Yes.

13 **Q.** Do you believe that the events of January 9 and January
14 10, 2018, left you unable to continue to serve as a fair and
15 impartial juror in the case, or unable to fully consider the
16 evidence and arguments presented by both sides with an open
17 mind?

18 **A.** No, I would assume we -- had that been the case, I would
19 assume that a juror would be expected to express that to
20 someone in charge. But no.

21 **Q.** Would you have done that?

22 **A.** If I felt that way, yeah.

23 **Q.** Thank you. Now I'm going to have a private conversation
24 with the lawyers over this little electronic device. You
25 won't be able to hear it, instead you'll hear the husher, the

1 noise maker machine, which I'm sure you remember from three
2 years ago. We're going to turn that on. And then I'm going
3 to have a private conversation and then I'll be back with you
4 in a minute. Okay?

5 **A.** Yeah, uh-huh.

6 (Bench conference on the record.)

7 THE COURT: Mr. Martinez, do you have any follow-up
8 questions?

9 MR. MARTINEZ: No.

10 THE COURT: Mr. Enzinna, do you? Microphone.

11 MR. ENZINNA: I apologize, I could not hear Mr.
12 Martinez, but I assume he said no.

13 THE COURT: He said no.

14 MR. ENZINNA: I do have follow-up questions.

15 THE COURT: Yes, sir.

16 MR. ENZINNA: First of all, when you asked her if
17 she remembered her service she said, this is a quote, most
18 definitely. I think she should be asked what she meant by
19 that.

20 THE COURT: Thank you, Mr. Enzinna. Anything else?

21 MR. ENZINNA: Yes. She claimed that she did not
22 remember hearing anyone say anything about photos --
23 specifically about photos, but she was the juror who --

24 THE COURT: Just a second, someone's lost service on
25 their device.

1 Ms. Smith, assist Mr. McCants. The record will
2 reflect that one of the defendants, Mr. McCants has signaled
3 that his telex device has failed. We're in the process of
4 replacing it with a substitute device.

5 Test, test, 1, 2, 3, test. Test, 1, 2, 3. Let the
6 record reflect Mr. McCants is signaling that he is now able to
7 hear. We remain on the private channel on the record.

8 Mr. Enzinna, did you have another question?

9 MR. ENZINNA: Yes, Juror No. 2 said that she --
10 juror No. 2 said that she did not specifically recall
11 specifically anyone talking about photography, but she was the
12 juror that it was reported during the trial was the person who
13 said that Juror No. 4 came in and said he had observed people
14 taking photos and said it was really serious. She also said
15 here today that she or others wondered if it was someone's
16 mother. And part of her report -- or what was reported that
17 she said during the trial, was that Juror No. 4 said it might
18 have been Mr. McCants's mother taking pictures. So I think
19 there's parts of her memory that we're not hearing about and I
20 think she needs to be probed further and reminded what she
21 said at trial.

22 The third thing, she said when Juror No. 4 left, was
23 excused, she said all the rest of the jurors looked at each
24 other and said, quote, something was up. I think she needs to
25 be asked more about that and what did she think was up.

1 THE COURT: I didn't hear her say that the jurors
2 said that to each other, but that they looked at each other as
3 if to sort of communicate that back and forth among
4 themselves. But there was no suggestion on her part of a
5 discussion or, in fact, anything being said. Do you remember
6 it differently, Mr. Enzinna?

7 MR. ENZINNA: No, I think you're correct, Your
8 Honor. And I may have misspoke. She did say they looked at
9 each other as if something was up.

10 THE COURT: Thank you, Mr. Enzinna.

11 MR. ENZINNA: I'd like her to be asked what she
12 thought was up.

13 THE COURT: Any other questions?

14 MR. ENZINNA: Also, Your Honor, I make the same
15 request that I made with Juror No. 1, with regard to her being
16 asked about being intimidated and remaining impartial. Again,
17 I think the problem is that the Court -- the jurors are not
18 being told what the term impartial means in this context. And
19 I think that also the way the question's being asked, it's
20 effectively a leading question. Because you're asking jurors
21 to admit that they did not fulfill their oath by being
22 impartial. And I think it ought -- the way the question ought
23 to be asked is whether or not the jurors continue to think
24 about this incident or whether they put it out of their
25 mind.

1 THE COURT: Thank you, Mr. Enzinna. Can you hear
2 me -- can you all hear me? I can't suddenly -- I've got it
3 back.

4 Thank you, Mr. Enzinna. I decline to ask any of the
5 follow-up questions that you just proposed. I make that
6 ruling based on the interaction that I've had be the juror,
7 who I continue to look at about ten feet away from me. And
8 having listened carefully to the answers that she supplied.
9 No doubt we could have extensive discussions about this trial,
10 its details, the impressions that it left on jurors that have
11 stayed with them over time. But this juror strikes me as
12 intelligent, as sophisticated in her use of language. And,
13 accordingly, her understanding of language. I have no
14 significant doubt that she understands the meaning of the word
15 impartial.

16 I've also, once again with this juror, listened for
17 and watched for any signals or indications of ambivalence or
18 questioning on the core issue, and that is whether or not
19 whatever happened on January 9 had an impact on her continuing
20 ability to serve as a fair and impartial and open-minded
21 juror. And once again, this juror, in her responses, has been
22 crystal clear on that issue. Was there a matter of concern
23 raised? Evidently, to the point that there was some nonverbal
24 communication that went on after Juror No. 4 was excused and
25 an alternate was seated.

1 But what we're really here to assess is not whether
2 or not there were twists and turns during the trial and so
3 forth, there clearly were some. It's really, at the end of
4 the day, a bottom line assessment of whether or not the
5 government can demonstrate that the juror's ability to
6 function fairly, impartially, and with an open mind, and
7 without effect from any sort of outside event, whether all of
8 that prevailed. And her answers and the emphasis that she has
9 supplied in providing them, provides the Court what -- with
10 what it will need to assess her particular capacity for
11 fairness, impartiality and open mindedness after the events of
12 January 9.

13 Mr. Bussard, do you have any follow-up questions?

14 MR. BUSSARD: Your Honor, I do not.

15 THE COURT: Closer to the microphone please, Mr.
16 Bussard.

17 MR. BUSSARD: I join Mr. Enzinna as far as his
18 requests. I too recall that Mr. Juror No. 2 was the one that
19 spoke up after the January 9th --

20 THE COURT: You're fading out, Mr. Bussard. I'm
21 going to ask you to sort of get closer to the mike and then
22 come up with you recall Juror No. 2, and it sort of faded
23 out.

24 MR. BUSSARD: I recall Juror No. 2, to the same
25 extent Mr. Enzinna recalled, that she was the one that had

1 made a statement during the January 9th, January 10th
2 exchange. So I join with Mr. Enzinna on his questions as
3 well.

4 THE COURT: Let me elaborate on my ruling, because I
5 have some recollection of that same circumstance that Mr.
6 Enzinna and Mr. Bussard are describing. But the Court is
7 electing not to further develop that at this time in favor of
8 the testimony elicited this morning, which goes to what the
9 Court is zeroed in on at this point, not whether or not there
10 was some discussion. It's incontrovertible that Juror No. 4
11 did think that he saw something in terms of picture taking and
12 did make some comment in front of other jurors. That's
13 incontrovertible. That occurred. And events like that
14 sometimes happen during the course of trials.

15 What the Court has to nail down is what was the
16 effect of that, if any, what impact was there. And, of
17 course, what we're concerned about is whether or not these
18 jurors were able to soldier on and continue on in their
19 service with an open mind, with fairness, and with
20 impartiality. And, accordingly, the Court is most focused on
21 that inquiry in this proceeding. And is completely ready to
22 ask follow-up questions that will start to explore ambivalence
23 around that point.

24 With this juror, though, there is no evidence of
25 ambivalence around that issue. The assurance, self-assurance

1 that she has with respect to her continuing capacity to be
2 fair and impartial and open minded is palpable, not just in
3 the words that she expressed but once again the energy with
4 which she expressed them and her tone and emphasis.

5 Ms. Wicks, do you have any proposed follow-up questions.

6 MS. WICKS: Nothing in addition to what was already
7 raised Your Honor.

8 MR. O'TOOLE: Your Honor, I wonder --

9 THE COURT: Mr. O'Toole.

10 MR. O'TOOLE: Yes, I'm having a feedback here. And
11 I know the Court has already heard from Mr. Enzinna and I
12 don't mean to --

13 THE COURT: And in general our practice is going to
14 be one lawyer for each defendant speaking. There's nothing
15 wrong with two lawyers being here and you're consulting
16 privately, but really we need to hear from one lawyer per
17 juror. And you can switch back and forth with you handling
18 some jurors and Mr. Enzinna handling some and so forth, but
19 we're not going to do a tag-team approach.

20 MR. O'TOOLE: I wonder if we could do that going
21 forward with my able to make one comment here.

22 THE COURT: Go ahead.

23 MR. O'TOOLE: I think what's happening with the use
24 of the word and the question involving were they able to stay
25 impartial, I think that by nature puts them directly on the

1 spot. I think that if going forward we can find out if they
2 were able to put those incidents out of their mind, especially
3 with this juror, who selectively has forgotten that she's the
4 one who did say that she heard the comments about the picture
5 taking. So I think that the jurors --

6 THE COURT: In proposing a question, you have to
7 consider what the relevance of the answer would be. Let's
8 suppose a juror responded to that by saying no, I couldn't put
9 that out of my mind. I can still remember it. I can remember
10 it today. I remember it with crystal clarity. Whether or not
11 they could put the issue out of their mind isn't what's
12 relevant here. What's relevant is whether the issue affected
13 their ability to be fair and impartial and to operate with an
14 open mind.

15 And I'm not going to engage in an effort to try to,
16 you know, probe, dig, come at them from multiple angles, and
17 test the question of fairness, impartiality, and open
18 mindedness, unless I encounter what I discern to be some
19 ambivalence, some lack of emphasis, some lack of clarity on
20 this ultimate question about which I'm inquiring. Should that
21 occur, I'll be on it like a bird dog. It hasn't happened.

22 MR. O'TOOLE: Well, I think the last comment I have,
23 then I'll remain silent, is proposing a very insignificant
24 almost in terms of time expenditure, a two-step process, a
25 two-question process, don't take away the question you're

1 suggesting but preface with were you able to put it out of
2 your mind? If they say yes, then obviously we're already into
3 your question. If they say no, I couldn't put it out of my
4 mind, but when you ask them could you remain impartial then
5 they may say yes or they may say no. But I'm suggesting an
6 investment of a two-step process, which would be a
7 insignificant amount of time to get to the next step.

8 What you're doing, what the Court is doing the is
9 going right to the point of putting them on the spot, could --
10 you know, they do their service as they swore to do. That's
11 the last of my comment. Thank you, Judge.

12 THE COURT: Let the record reflect that in inquiring
13 of the jurors in the way that I do, I'm following the time
14 honored tradition that judges, including this judge, have used
15 for decades in voir diring jurors. We interview potential
16 jurors as a matter of routine. We don't conduct *Remmer*
17 hearings as a matter of routine, I'll concede that. But we do
18 interview jurors regularly, every time we seat a juror in this
19 court.

20 And we deal with jurors, particularly from our
21 community in some of our criminal cases, who have experienced
22 some of the most difficult and horrific experiences, such as
23 having their own children be the victims of homicide, or
24 themselves having children who have been incarcerated and
25 accused and convicted of serious crimes. So it's not that the

1 Court is a stranger to difficult and delicate areas of inquiry
2 with respect to jurors and potential jurors, it's actually,
3 sadly, very common turf for this Court to tread.

4 And what the Court has learned is to be quite
5 surgical in going after what is the core question. Just
6 because your child has been convicted of a serious offense and
7 is currently incarcerated, or just because your child has been
8 the subject or the victim of a horrible violent crime, perhaps
9 a sexual offense or a murder, that sort of thing, doesn't
10 render someone incapable to serve as a juror in this court.

11 Now, when those kinds of circumstances have
12 presented themselves, they do warrant a special attention
13 being paid to the question of can this juror really perform
14 impartially and fairly and with an open mind in light of what
15 they have disclosed to us. The Court's practice is to shift
16 to an emphasis on that topic. And to listen very carefully to
17 the answers that come back. And especially to watch the juror
18 and listen to whether there's ambivalence or whether there's
19 emphasis in the answers that are given. I'm employing that
20 exact same technique as I'm interviewing these jurors here.

21 A question like "could you put that matter out of
22 your mind," doesn't assist me in that regard. I would be
23 surprised if jurors did put out of their mind the question of
24 whether there was, you know, pictures being taken, if they
25 actually really heard that, if they actually heard a juror say

1 that, it would be completely natural that it would remain in
2 mind. And they are acknowledging that they remember the
3 incident. And to the extent they do, that's not a surprise.
4 It was an event that caught attention during the course of the
5 trial. It caused the trial to be paused and so forth.

6 So whether they have the ability to put the matter
7 out of their mind at the end of the day is not the question,
8 the answer to which will assist the Court. I'm zeroing in on
9 that which will. Okay. Let's go back to the regular channel.

10 (The following proceedings were had in open court.)

11 THE COURT: Juror No. 2, thank you so much for
12 returning here to court some three years after the event.

13 THE WITNESS: You're welcome.

14 THE COURT: You are a good citizen in responding to
15 your summons, once again, to return. We thank you very much
16 for your participation here today and you are excused and you
17 may depart.

18 THE WITNESS: Thank you.

19 THE COURT: Thank you, ma'am.

20 Ladies and gentlemen, I'm advised that there's a
21 nationwide issue with respect to the AT&T public line that we
22 ordinarily use to allow persons to dial in by conference call
23 number and listen to our proceedings. Our IT staff and AT&T
24 nationally are working on this issue. It's not a local issue
25 to our courthouse. And I remind everyone and note again for

1 the record that the public is perfectly free to listen in and
2 watch these proceedings from courtroom 7A. That channel is
3 not impacted by this technical glitch.

4 (Juror No. 3 entered the courtroom.)

5 THE COURT: We've got to do the COVID clean up
6 first. Take a seat on the chair. Thank you very much. More
7 for you in just a second. Are we ready? Swear the witness.

8 THE CLERK: We are, Your Honor.

9 THE COURT: If you would just raise your right
10 hand.

11 JUROR NO. 3,
12 called as a witness, being first duly sworn, was examined and
13 testified as follows:

14 THE WITNESS: I do.

15 THE CLERK: Thank you.

16 EXAMINATION

17 BY THE COURT:

18 Q. Good morning.

19 A. Hi.

20 Q. You are Juror No. 3 from the trial of United States versus
21 Johnson, JKB-16-363; is that correct?

22 A. Yes.

23 Q. Between November 20, 2017, and January 25, 2018, you
24 served as a juror in the trial of United States versus Gerald
25 Johnson, et al., case number JKB-16-0363, I was the judge who

1 presided during that trial. I know I have a face mask on now,
2 as do you, but do you remember that I was the judge?

3 **A.** Yes.

4 **Q.** Okay. Also with us here today are attorneys who represent
5 the parties in the case. Starting with assistant U.S.
6 Attorney Martinez and Assistant U.S. Attorney Hoffman, they
7 represent the government. Mr. Enzinna and Mr. O'Toole who
8 represent Mr. Johnson. Mr. Bussard, who represents Mr. Jones.
9 And Ms. Wicks and Mr. Nieto who represent Mr. McCants. Do you
10 remember your service as a juror in this case?

11 **A.** Yes.

12 **Q.** The trial lasted for many weeks. During the trial some
13 concerns were raised, such as defendants passing notes,
14 looking at jurors, having access to juror information through
15 the juror selection process known as voir dire. The Court
16 addressed these concerns without pausing the trial.

17 Then, on January 9, 2018, an event occurred, which caused
18 the trial to briefly pause. One of your fellow jurors, in the
19 presence of at least some of the rest of the jurors and
20 alternates, expressed concern that persons, perhaps a
21 defendants' family members, might be taking pictures of the
22 jurors as they passed through the vestibule at the entrance to
23 the courtroom and the jury room. We understand that juror may
24 have seen this as a significant event. A few minutes later
25 you were interviewed by court staff about that event.

1 A day later, on January 10, 2018, I spoke to the jury in
2 the courtroom and said, one or more jurors had a concern that
3 perhaps someone outside of the jury room in the courtroom
4 vestibule or courtroom hallway had photographed or otherwise
5 captured the images of jurors. This matter was investigated
6 after that report was received. The investigation included
7 the examination of a relevant smart phone, camera-type device
8 in the possession of a relevant individual. That
9 investigation revealed that there were no images, films, or
10 videos of the sort that I have referred to captured on that
11 telephone.

12 Today I have some questions for you about the events of
13 January 9, 2018. Specifically, I need your assistance in
14 learning whether the events of that day impacted your ability
15 to be a fair and impartial juror for the remainder of the
16 trial.

17 The lawyers I introduced earlier are not here to ask you
18 questions, only the Court will do that, only me. But the
19 lawyers are here to represent the interests of their clients
20 and to propose follow-up questions that the Court -- me -- may
21 or may not ask, in my discretion.

22 As you respond to my questions, please be careful not to
23 tell us about the jury's deliberations on the defendants guilt
24 or innocence, or about how you reached your verdict. We don't
25 want to know about that. Do you remember this event that I'm

1 referring to on January 9?

2 **A.** Somebody mentioned something. I didn't pay much
3 attention.

4 **Q.** Did you see anyone engaged in any action that suggested
5 that they were taking pictures of jurors?

6 **A.** No.

7 **Q.** Did you hear any juror make statements indicating his or
8 her belief that persons might be taking pictures of jurors?

9 **A.** I heard something.

10 **Q.** What do you remember hearing, as best you can remember it
11 now?

12 **A.** That was about it. Somebody said that they thought maybe
13 somebody was taking a picture.

14 **Q.** Do you remember which jurors raised questions regarding
15 potential picture taking?

16 **A.** No.

17 **Q.** Did anyone, including yourself, suggest that these
18 concerns should be reported to the Court?

19 **A.** I don't remember. I don't think so.

20 **Q.** Did you hear or participate in discussion among the jurors
21 about the possibility of picture taking? If so, can you
22 remember what was said? And I'm sorry if I'm sort of asking
23 the same questions over, but we're really trying to get out
24 exactly what you remember about this, if anything?

25 **A.** I wasn't included in anything. I just overheard somebody

1 say something to somebody, that possibly that was happening.
2 That's all I knew.

3 **Q.** In responding to the next questions, I'm going to ask you
4 to draw a line between events that occurred prior to the start
5 of your deliberations and events that happened after you began
6 deliberations. By deliberations I mean that point in the
7 trial where no more evidence was presented, the lawyers had
8 made their arguments, and I had read the jury instructions to
9 you. That's the point when deliberations began. I don't want
10 to hear anything about that. Just the matters that came
11 before that.

12 So, all of your answers to these questions should be
13 limited to events that occurred and things that you thought or
14 felt before you began deliberations. To reiterate, in your
15 answers to these questions, you should not tell us anything
16 about what happened, what was said, what you thought, what you
17 felt after deliberations began. After any discussion about
18 possible picture taking on January 10 -- January 9 and 10, did
19 you feel intimidated by anything that had occurred?

20 **A.** No, I actually don't even remember if I heard about it
21 before or after the deliberation. I can't really remember
22 when I heard about it. So, but it didn't have anything to do
23 with the decision.

24 **Q.** Were you able to remain an impartial juror, and were you
25 able to keep an open mind as the trial continued, after that

1 event on January 9?

2 **A.** Yes.

3 **Q.** Do you believe the events of January 9 and January 10,
4 2018, left you unable to continue to serve as a fair and
5 impartial juror in the case?

6 **A.** No.

7 **Q.** Do you believe that you were left unable to fully consider
8 the evidence and arguments presented by both sides with an
9 open mind?

10 **A.** No.

11 **Q.** Any concerns about that?

12 **A.** No.

13 **Q.** Now what's going to happen is, I'm going to talk to the
14 lawyers on a private little electronic device. You're not
15 going to be able to hear this. Instead you're going to hear
16 the annoying noise machine that you probably remember from the
17 trial.

18 **A.** Uh-huh.

19 **Q.** Okay. And then when I'm finished talking to them I'll
20 have more to say to you at that point. So I'll ask your
21 patience for a minute.

22 **A.** Okay.

23 (Bench conference on the record.)

24 THE COURT: Mr. Martinez, do you have any follow-up
25 questions?

1 MR. MARTINEZ: No, Your Honor.

2 THE COURT: Mr. Enzinna, do you have any follow-up
3 questions?

4 MR. ENZINNA: Well, Your Honor --

5 THE COURT: Closer to the mike, please.

6 MR. ENZINNA: She said she does not remember whether
7 she heard this before or after deliberations began. Seems to
8 me that if she heard it, if she had not heard it before
9 deliberations began, then none of her answers today are
10 relevant. I think she would need to be --

11 THE COURT: You're too far from the mike.

12 MR. ENZINNA: I think we need to be -- get more
13 clarity from her on when she heard about this, because as I
14 said, I think that if she did not hear about it until
15 deliberations began then none of her answers are relevant and
16 they're, in fact, inadmissible.

17 And I would also make the same objections I've made
18 with respect to all the other jurors with regard to the
19 Court's questions 11 through 13. And I would request that the
20 Court ask her whether she was able to put this event out of
21 her mind.

22 THE COURT: Let's have that as a standing request
23 from defense counsel that is in general denied by the Court
24 and the record should reflect it is denied by the Court unless
25 I elect in the specific circumstances of a particular juror to

1 revise that issue because of something I've said or noticed,
2 in which case we'll get back to it. But otherwise, let's let
3 the record reflect that you have a continuing objection across
4 examination of all the jurors with respect to that issue.

5 Is that acceptable, Mr. Enzinna?

6 MR. ENZINNA: That is. Thank you, Your Honor. And
7 finally --

8 THE COURT: Let's go back to this other issue about
9 timing, though, which seems to be your first focal point with
10 respect to this juror. She has -- she did make one comment,
11 she indicated that she's not sure if she heard about this
12 before deliberations began or after deliberations began. But
13 then her other answers seemed to suggest that she wasn't
14 influenced by it regardless. Well, how do I integrate those
15 two circumstances in my evaluation of this evidence?

16 MR. ENZINNA: Well, Your Honor, if she did not hear
17 about the event until deliberations began, then nothing she
18 can tell us about her reaction to the event is admissible,
19 under Rule 606(b)(1). So if what she's talking about is the
20 reaction to the event after deliberations began, then none of
21 that is admissible.

22 THE COURT: Thank you. Let me follow up with her.

23 MR. MARTINEZ: Your Honor, may I be heard on that
24 for just a moment?

25 THE COURT: Go ahead, Mr. Martinez.

1 MR. MARTINEZ: I think that argument is legally
2 incorrect. I think Rule 606(b) permits testimony regarding
3 external influences regardless of the timing. We're using the
4 beginning of deliberations as a demarcation point for purposes
5 of prophylactically steering the Court's questions in this
6 case. But I think Mr. Enzinna is wrong when she suggests
7 she's not permitted to testify regarding an external contact
8 regardless of the timing. I think 606(b) allows for that.

9 THE COURT: So, I'm not ruling on that question
10 right now. Specifically that legal issue, but I still think
11 it might aid the process to try to clear up, if possible, the
12 particulars of her recollection. Let me take another shot at
13 attempting to do that in terms of nailing down the timing
14 here, not because I necessarily agree with the suggestion from
15 Mr. Enzinna, that depending on how she answers the question,
16 that potentially renders the information that she supplied
17 irrelevant or inadmissible. And the Court's not ruling that
18 way in any way, shape, or form, at least not at this time.
19 But I still think that there is a little bit of ambiguity
20 there that perhaps can be clarified, perhaps cannot be.

21 (The following proceedings were had in open court.)

22 **BY THE COURT:**

23 **Q.** You've had a moment or two to think about the question
24 that I've asked you, is there anymore clarity in your mind
25 about when during the trial, before deliberations or after

1 deliberations, you might have first heard the talk or
2 suggestion about picture taking?

3 **A.** No, I don't know when, because I didn't really pay any
4 attention.

5 **Q.** Because you just didn't pay attention?

6 **A.** I heard, like I said, somebody said something to somebody
7 else, overheard something. That was all. It didn't phase me,
8 so I didn't pay attention.

9 **Q.** All right. So to the extent that there was some
10 discussion about picture taking or some loose reference to it,
11 tell us again, if you can, how that did or did not affect your
12 ability to be fair and impartial and open minded as a juror
13 prior to beginning deliberations?

14 **A.** Well, it didn't effect my decision. Is that what you're
15 saying?

16 **Q.** I'm not really asking you about your decision. We try to
17 stay away from that. I'm just trying to ask you about your
18 state of mind as you were sitting there as the days went by,
19 you know, did you -- was there -- did the events of January 9
20 have an impact on your ability to be fair and impartial and
21 open minded?

22 **A.** No, it didn't.

23 THE COURT: We'll go back on the private channel.

24 (Bench conference on the record.)

25 THE COURT: Mr. Enzinna, can you hear me?

1 MR. ENZINNA: I hear you, yes.

2 THE COURT: All right. So we were still in the
3 midst of your proposed follow-up questions. Do you have any
4 others?

5 MR. ENZINNA: No, the only other thing I was going
6 to say is that -- I'll withdraw it.

7 THE COURT: Thank you. Mr. Bussard, do you have any
8 follow-up questions?

9 MR. BUSSARD: No, Your Honor.

10 THE COURT: Ms. Wicks, do you have any proposed
11 follow-up questions?

12 MS. WICKS: None, Your Honor.

13 THE COURT: Little bit closer to the mike, please,
14 Ms. Wicks.

15 MS. WICKS: No, Your Honor.

16 THE COURT: Thank you, ma'am. We'll go back to the
17 courtroom channel.

18 (The following proceedings were had in open court.)

19 THE COURT: Thank you Juror No. 3. We're now
20 finished. We sincerely appreciate your returning to court
21 after these many years to answer our questions. You're a good
22 citizen to respond to your summons in that fashion and to come
23 back down here. You leave with the gratitude of the Court.
24 The courtroom clerk will now take you out. You are excused
25 and you may depart. Please remember to take your things.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you.

3 (Juror No. 4 entered the courtroom.)

4 THE COURT: Good morning.

5 THE WITNESS: Good morning.

6 THE COURT: You are Juror No. 4 in United States
7 versus Johnson, JKB-16-363; is that correct?

8 THE WITNESS: Correct.

9 THE COURT: Between November 20, 2017 and January
10 25, 2018, you served as a juror in the trial of United States
11 versus Gerald Johnson, et al., case number JKB-16-0363. I was
12 the judge who presided during that trial. I've got a face
13 mask on now, but can you recognize that I was the judge? Do
14 you remember that?

15 THE WITNESS: Yeah.

16 THE COURT: Okay. Now, also here with us today, in
17 addition to me, are lawyers who represent the parties in the
18 case. First of all, representing the government, Assistant
19 U.S. Attorney Martinez and Assistant U.S. Attorney Hoffman.
20 And then representing Mr. Johnson, Mr. Enzinna and Mr.
21 O'Toole. Representing Mr. Jones is Mr. Bussard. And
22 representing Mr. McCants is Ms. Wicks and Mr. Nieto. These
23 lawyers are all in the courtroom. And I see you looking at
24 them now, and some of them -- that's right, are over your
25 right shoulder, okay.

1 Do you remember your service in this -- thank you
2 very much. We didn't swear you. Let's stop and please
3 administer the oath. Please raise your right hand.

4 JUROR NO. 4,
5 called as a witness, being first duly sworn, was examined and
6 testified as follows:

7 THE WITNESS: I do.

8 THE CLERK: Thank you.

9 THE COURT: And let me catch up and ask you if the
10 answers that you've supplied so far have been truthful?

11 THE WITNESS: Yes.

12 THE COURT: Okay.

13 EXAMINATION

14 BY THE COURT:

15 **Q.** Now do you remember your service as a juror in this
16 case?

17 **A.** I do.

18 **Q.** The trial lasted for many weeks. During the trial some
19 concerns were raised, such as the defendants passing notes,
20 looking at jurors, and having access to juror information
21 through the juror selection process known as voir dire. The
22 Court addressed these concerns without pausing the trial.

23 Then, on January 9th, 2018, an event occurred, which
24 caused the trial to briefly pause. One of your fellow jurors,
25 in the presence of at least some of the rest of the jurors and

1 alternates, expressed concern that persons, perhaps a
2 defendant's family members, might be taking pictures of the
3 jurors as they passed through the vestibule at the entrance to
4 the courtroom and the jury room. We understand that juror may
5 have seen this as a significant event. A few minutes later,
6 you were interviewed by court staff about that event.

7 A day later, on January 10, 2018, I spoke to the jury in
8 the courtroom and said: One or more jurors had a concern that
9 perhaps someone outside of the jury room, in the courtroom
10 vestibule or courtroom hallway, had photographed or otherwise
11 captured images of the jurors. This matter was investigated
12 after that report was received. The investigation included
13 the examination of a relevant smart phone camera type device
14 in the possession of a relevant individual. That
15 investigation revealed that there were no images, films,
16 videos of the sort that I have referred to, captured on that
17 telephone.

18 Today, I have some questions for you about the events of
19 January 9, 2018, specifically, I need your assistance in
20 learning whether the events of that day impacted your ability
21 to continue to be a fair and impartial juror for the remainder
22 of the trial?

23 The lawyers I introduced are not here to ask you
24 questions, only the Court will do that, only I will ask you
25 questions. But the lawyers are here to represent the

1 interests of their clients and to propose follow-up questions
2 that the Court may or may not ask you in its discretion. As
3 you respond to my questions, please be careful not to tell us
4 the jury -- not to tell us about the jury's deliberations on
5 the defendant's guilt or innocence, or about how you reached
6 your verdict. We don't want to hear about that.

7 Do you remember this event on January 9 that I'm
8 referring to?

9 **A.** Vaguely.

10 **Q.** Did you see anyone engaged in any action that suggested
11 that they were taking pictures of the jurors?

12 **A.** No.

13 **Q.** Did you a hear any juror make statements indicating his or
14 her belief that persons might be taking pictures of the
15 jurors?

16 **A.** I -- yes, I did.

17 **Q.** What do you remember hearing?

18 **A.** I think it's -- hmm. It was along the lines of, I can't
19 believe, you know, we see the defense family here mixed
20 together. And I see some people on the phones. I think
21 they're taking pictures. And I just thought it was, you know,
22 just a little bit of just paranoia. I didn't think anything
23 of it. I was like, I doubt it, but -- someone said something
24 like that.

25 **Q.** Do you recall which jurors raised concerns regarding

1 potential picture taking?

2 **A.** No.

3 **Q.** Did anyone, including yourself, suggest that these
4 concerns should be reported to the Court?

5 **A.** No.

6 **Q.** Did you hear or participate in discussion among the jurors
7 about the possibility of picture taking?

8 **A.** No, I think it was just mentioned and it really didn't
9 evolve into a real conversation.

10 **Q.** Okay.

11 **A.** I think it was just someone who was a little paranoid
12 about something. But it is -- can't really prove, people are
13 on the phone in the hallway all the time. So I just thought
14 whatever she -- or she or he is just being paranoid.

15 **Q.** Okay. So the next question was, can you remember what was
16 said? But I think you just answered that, is that true?

17 **A.** Yeah.

18 **Q.** In responding to the next questions I'm going to ask --
19 I'm going to again ask you to draw a line between the events
20 that occurred prior to the start of your deliberations and
21 events that happened after you began deliberations. By
22 deliberations, I mean that point in the trial when no more
23 evidence was presented, the lawyers had made their arguments
24 and I had read the jury instructions to you, that's the point
25 when deliberations began. And I don't want to hear anything

1 about that. Just matters that came before that.

2 So all of your answers to these questions should be
3 limited to events that occurred, and things that you thought
4 or felt before you began deliberations. To reiterate, in your
5 answers to these questions you should not tell us anything
6 about what happened, what was said, what you thought, what you
7 felt after deliberations began.

8 Here's the question, first one, after any discussion
9 about possible picture taking on January 9 and 10, did you
10 feel intimidated by anything that had occurred?

11 **A.** No.

12 **Q.** Were you able to remain an impartial juror, and were you
13 able to keep an open mind as the trial continued after that?

14 **A.** Yes.

15 **Q.** Do you believe that the events of January 9 and January
16 10, 2018, left you unable to continue to serve as a fair and
17 impartial juror in the case?

18 **A.** No.

19 **Q.** Do you believe that those events left you unable to fully
20 consider the evidence and arguments presented by both sides
21 with an open mind?

22 **A.** No.

23 **Q.** Now, the next thing that's going to happen is I'm going to
24 have a private conversation with the lawyers over this little
25 electronic device. You're not going to be able to hear this

1 part of the conversation. Instead, we're going to turn on the
2 noise maker machine, which you probably remember from the
3 trial, so that you can't hear. Are you with me?

4 **A.** Yeah, I miss that noise.

5 **Q.** We'll come back and talk with you a little bit more in a
6 minute. All right?

7 **A.** Yeah.

8 (Bench conference on the record.)

9 THE COURT: Mr. Martinez, do you have any questions?

10 MR. MARTINEZ: No, Your Honor.

11 THE COURT: Mr. Enzinna?

12 MR. ENZINNA: Other than my standing objection, no
13 questions.

14 THE COURT: Okay. Please stay close the that mike.
15 I know it's very hard and when you get too close it starts
16 booming through. But I think a distance of about two inches
17 works out about perfect. It's not ideal and I apologize for
18 that. I think I heard you say that you do not have any
19 questions for this witness other than your standing objections
20 and suggestions in terms of how we question all jurors; is
21 that right, Mr. Enzinna? Can you hear me, Mr. Enzinna?

22 MR. ENZINNA: My telex unit is coming in and out. I
23 did not hear anything the Court said after talking about the
24 microphone.

25 THE COURT: All right. Meanwhile, Ms. Smith, let's

1 replace Mr. Enzinna's telex device.

2 Mr. Enzinna, are you able to hear me?

3 MR. ENZINNA: I cannot hear you.

4 THE COURT: Can you hear me now?

5 MR. ENZINNA: No, I can't hear.

6 THE COURT: Do you have the ear piece actually in
7 your ear, it looks like it's hanging. Test, one, two, three,
8 can you hear me?

9 MR. ENZINNA: I heard that. If I stay just like
10 this I can hear you.

11 THE COURT: My position with respect to this witness
12 is that you propose no specific follow-up questions for him,
13 but you want to stand on your earlier objections as to how the
14 Court is proceeding generally with respect to all witnesses,
15 but other than that you have nothing further for this
16 particular witness; is that correct?

17 MR. ENZINNA: Yes.

18 THE COURT: Thank you. Mr. Bussard, any follow-up
19 questions.

20 MR. BUSSARD: No, Your Honor.

21 THE COURT: Ms. Wicks, any follow-up questions?

22 MS. WICKS: No. Thank you, Your Honor.

23 THE COURT: Thank you, ma'am.

24 We'll go back to the courtroom channel.

25 (The following proceedings were had in open court.)

1 THE COURT: Juror No. 4, we are now finished. Thank
2 you very much for returning here to court in response to your
3 summons. You're a good citizen for doing that. We appreciate
4 it. And you may depart. The courtroom clerk will take you
5 out. You are excused. You may leave the courthouse.

6 THE WITNESS: Thanks.

7 THE COURT: You didn't leave anything on the table,
8 did you? What about something -- there's something else up
9 there.

10 THE CLERK: No, that's mine.

11 THE COURT: Okay. Thank you. The Court clerk will
12 take you out.

13 (Juror No. 5 entered the courtroom.)

14 JUROR NO. 5,
15 called as a witness, being first duly sworn, was examined and
16 testified as follows:

17 THE WITNESS: Yes.

18 THE CLERK: Thank you.

19 EXAMINATION

20 BY THE COURT:

21 **Q.** Good morning, ma'am?

22 **A.** Good morning.

23 **Q.** You are Juror No. 5 from the trial of United States versus
24 Johnson, JKB-16-363; is that correct?

25 **A.** That's correct.

1 Q. Between November 20, 2017, and January 25, 2018, you
2 served as a juror in the trial of the United States versus
3 Gerald Johnson, et al., case number JKB-16-0363, I was the
4 judge who presided during that trial. I know I've got a face
5 mask on, but do you recognize me?

6 A. Yes.

7 Q. Okay. Now, we're in a different courtroom but same judge;
8 right?

9 A. Yes.

10 Q. Also here are the attorneys who represent the parties in
11 the case, Assistant U.S. Attorney Martinez and Assistant U.S.
12 Attorney Hoffman representing the government. Mr. Enzinna and
13 Mr. O'Toole representing Mr. Johnson. Mr. Bussard
14 representing Mr. Jones. Ms. Wicks and Mr. Nieto representing
15 Mr. McCants. Do you remember your service as a juror in this
16 case?

17 A. Yes.

18 Q. The trial lasted for many weeks. During the trial, some
19 concerns were raised, such as defendants passing notes,
20 looking at jurors, and having access to juror information
21 through the juror selection process known as voir dire. The
22 Court addressed these concerns without pausing the trial.

23 Then, on January 9, 2018, an event occurred, which caused
24 the trial to briefly pause. One of your fellow jurors, in the
25 presence of at least some of the rest of the jurors and

1 alternates, expressed concern that persons, perhaps a
2 defendants' family members, might be taking pictures of the
3 jurors as they pass through the vestibule at the entrance to
4 the courtroom and the jury room. We understand that juror may
5 have seen this as a significant event. A few minutes later
6 you were interviewed by court staff about that event.

7 A day later, on January 10, 2018, I spoke to the jury in
8 the courtroom and said one or more jurors had a concern that
9 perhaps someone outside of the jury room, in the courtroom
10 vestibule, or a courtroom hallway, had photographed or
11 otherwise captured the images of jurors. This matter was
12 investigated after that report was received. The
13 investigation included the examination of a relevant smart
14 phone, camera-type device, in the possession of a relevant
15 individual. That investigation revealed that there were no
16 images, films, videos of the sort that I have referred to
17 captured on that telephone.

18 Today, I have some questions for you about the events of
19 January 9, 2018. Specifically, I need your assistance in
20 learning whether the events of that day impacted your ability
21 to continue to be a fair and impartial juror for the remainder
22 of the trial.

23 The lawyers I introduced earlier are not here to ask
24 you question, only the Court will do that -- me. But these
25 lawyers are here to represent the interests of their clients

1 and to propose follow-up questions that the Court may or may
2 not ask you in its discretion. As you respond to my
3 questions, please be careful not to tell us about the jury's
4 deliberations on the defendants' guilt or innocence or about
5 how you reached your verdict. We do not want to hear about
6 that.

7 Do you remember this event from January 9?

8 **A.** Yes.

9 **Q.** Did you see anyone engaged in any action that suggested
10 that they were taking pictures of the jurors?

11 **A.** No.

12 **Q.** Did you hear any juror make statements indicating his or
13 her belief that persons might be taking pictures of jurors,
14 and if so what do you remember hearing?

15 **A.** I just remember being called in and asked questions about
16 what happened that day. I wasn't in the area during that
17 time. I had been out for a walk around the building.

18 **Q.** Do you recall which jurors raised questions regarding
19 potential picture taking?

20 **A.** Yes.

21 **Q.** Can you tell me what you remember about that?

22 **A.** I just know the juror that I was sitting next to that was
23 dismissed.

24 **Q.** Okay. And that's the person who you believe was raising
25 the concerns?

1 **A.** Yes.

2 **Q.** Okay. So you were Juror No. 5?

3 **A.** Yes.

4 **Q.** So that would have been either Juror No. 4 or Juror No. 6
5 I guess that you're referring to?

6 **A.** Correct, 4.

7 **Q.** 4, it was Juror No. 4?

8 **A.** Uh-huh.

9 **Q.** Who had raised the concerns?

10 **A.** Yes.

11 **Q.** Okay. And did you remember hearing him raise the
12 concerns?

13 **A.** No. Not to me, no.

14 **Q.** Okay. Did you hear or participate in discussion among the
15 jurors about the possibility of picture taking, and if so can
16 you remember what was said?

17 **A.** That was three years ago --

18 **Q.** Yeah, I know. Just take your time.

19 **A.** I don't remember like actual conversations. I just knew
20 that we were being called in one by one because of an incident
21 that had happened that day.

22 **Q.** Okay. In responding to the next questions, I am going to
23 again ask you to draw a line between events that occurred
24 prior to the start of deliberations and events that happened
25 after you began deliberations. By deliberations I mean that

1 point in the trial when no more evidence was presented, the
2 lawyers had made their arguments, and I had read the jury
3 instructions to you. That's when deliberations began. And I
4 don't want to hear anything about that, just matters that came
5 before that.

6 So all of your answers to these questions should be
7 limited to events that occurred, and things that you thought
8 or felt, before you began deliberations. To reiterate, in
9 your answers to these questions you should not tell us
10 anything about what happened, what was said, what you thought,
11 what you felt after deliberations began, are you with me?

12 **A.** Uh-huh, yes.

13 **Q.** After any discussion about possible picture taking on
14 January 9 and 10, did you feel intimidated by anything that
15 had occurred?

16 **A.** Yes.

17 **Q.** Tell me about that? What did you feel intimidated
18 about?

19 **A.** Well, when you shared the incident the next day in the
20 courtroom, which was where I kind of heard the whole thing
21 kind of come out, that was a little intimidating to think that
22 that could possibly have happened. You guaranteed us that it
23 had not, so, it was in my head.

24 **Q.** Okay. So then I gave you what we call an instruction, or
25 I gave you information, I said to you what I said and I just

1 referred to it a few minutes ago, did that have any effect on
2 you one way or another?

3 **A.** Which part?

4 **Q.** Where I said to you that we had looked into the matter and
5 then told you what we believed we had learned after we looked
6 into the matter.

7 **A.** I believed everything you said. I'm just saying when I
8 first heard it, it just kind of does -- that's in your head a
9 little bit. But when you said everything was fine and there
10 was nothing there, then that's what I went with.

11 **Q.** Okay. So were you able to remain an impartial juror and
12 were you able to keep an open mind as the trial continued
13 after that?

14 **A.** Yes.

15 **Q.** Is there any doubt in your mind about that?

16 **A.** No.

17 **Q.** Do you believe that the events of January 9 and January 10
18 left you unable to continue to serve as a fair and impartial
19 juror in the case?

20 **A.** Did I think that left me --

21 **Q.** Unable. Do you want me to repeat the question? Do you
22 believe that the events of January 9 and January 10, 2018,
23 left you unable to continue to serve as a fair and impartial
24 juror in the case?

25 **A.** No, I could still be fair and impartial.

1 Q. Do you believe those events left you unable to fully
2 consider the evidence and arguments presented by both sides
3 with an open mind?

4 A. I had an open mind.

5 Q. Did you say, "I had an open mind"?

6 A. Yes.

7 Q. Okay. Thank you. Now the next part of this is going to
8 occur on this little electronic device where I'm going to talk
9 to the lawyers in private. You're not going to be able to
10 hear this. Instead, we're going to turn on the courtroom
11 noise machine so that you won't be able to hear. I'll have a
12 private discussion with them and then I'll talk to you
13 further. It might take a couple minutes of minutes, so I just
14 ask that you be patient. Are you good?

15 A. Yes.

16 THE COURT: Thank you.

17 (Bench conference on the record.)

18 THE COURT: Mr. Martinez, do you have any follow-up
19 questions for Juror No. 5?

20 MR. MARTINEZ: Your Honor, I have no follow-up
21 questions, but I do want to revisit the juror's response to
22 question 11, which addressed intimidation. To my ear it was
23 clear that her response that she felt intimidated was geared
24 towards her response to the Court's statement in the courtroom
25 the following day. And to that extent it was a response, a

1 feeling of intimidation in response to something that happened
2 in open court with all the parties present, rather than a
3 response to an external contact. I just want the record to
4 reflect that. And I would request a factual finding to that
5 effect.

6 THE COURT: Well, we all heard it and the transcript
7 will reflect the words that were uttered. And in your post
8 hearing briefing you'll get every opportunity to address and
9 argue exactly how she answered the question. But I don't
10 think there's anything for me to rule on now, I mean, the
11 record is what it is.

12 She indicated that, you know, the whole story, the
13 whole prospect of what was described to her, particularly the
14 second day had an intimidating quality for her. She didn't
15 hesitate to then follow that by indicating that the further
16 explanation that was given by the Court purged her of that
17 feeling, such that she was able to -- well, I'm not suggesting
18 that she was ever unable to be a fair and impartial and
19 open-minded juror, but if she was it was immediately purged by
20 virtue of her testimony here, which was that she was able,
21 again, without question and with much emphasis able to
22 function as a fair and impartial and open minded juror.

23 Anything else, Mr. Martinez?

24 MR. MARTINEZ: No, Your Honor.

25 THE COURT: Mr. Enzinna?

1 MR. ENZINNA: Well, Your Honor, first of all, I want
2 to make an objection to the Court's asking the follow-up
3 question about the investigation, whether that reassured her.
4 I think that's not on the list of questions to be asked prior
5 to follow-ups, and I object to it being asked without the
6 opportunity to talk about it. I think it should not have been
7 asked and I think it's misleading. She indicated that she put
8 great store in the investigation when, in fact, the
9 investigation was deficient. And I think that she -- I
10 understand the Court's position that what's important is what
11 she believed, not necessarily what the fact was. But I think
12 that she needs to be asked whether or not the fact that only a
13 single camera was examined had any effect on her.

14 THE COURT: So, Mr. Enzinna, time is short, I think
15 that the record is crystal clear on what your position is with
16 respect to this issue as well as the Court's position. So
17 let's move on. What else have you got?

18 MR. ENZINNA: Also, Your Honor, she said, and this
19 is a quote, she said, "it was in my head." I think that
20 fairly begs for the question of whether or not she was able to
21 put this out of her mind during the period prior to
22 deliberations. And I think she should be asked that, and I
23 think she should be asked whether having it in her head
24 affected her perception or analysis of the evidence as it came
25 in.

1 THE COURT: Thank you, Mr. Enzinna. The question of
2 whether something is in someone's head has an inherent
3 vagueness to it. Unquestionably, the matter was in her head.
4 She's able to recall it today when she's questioned about it,
5 and with some specificity. That's not of assistance to the
6 Court in the determination that it ultimately has to make.
7 Lots of information goes through a person's head. The
8 question is the significance that it is given. And in this
9 instance the question is what significance is it given in the
10 context of fairness, open mindedness, impartiality. And
11 accordingly, my questions ultimately are designed to zero in
12 on that issue.

13 Any other proposed questions, Mr. Enzinna?

14 MR. ENZINNA: Your Honor, I think it's quite clear
15 that when she said it was in her head --

16 THE COURT: I don't want to argue with you, Mr.
17 Enzinna. I want to know if you have any other questions.

18 MR. ENZINNA: No other questions, Your Honor.

19 THE COURT: Thank you.

20 Mr. Bussard?

21 MR. BUSSARD: No, Your Honor.

22 THE COURT: Ms. Wicks?

23 MS. WICKS: No other questions, Your Honor.

24 (The following proceedings were had in open court.)

25 THE COURT: Back on the courtroom channel. Juror

1 No. 5, thank you for returning to court these many years
2 later, and being a good citizen and responding to your summons
3 yet again. We are grateful to you for your service as a juror
4 and for returning here again in response to the communication
5 that you have received from us. You are now excused, this
6 process is completed and finished with respect to you and you
7 may depart the courthouse. The Court clerk will take you out.
8 Please remember to collect all of your things so you don't
9 leave something behind. Thank you, ma'am.

10 Counsel, I'm advised that the juror's lunch has
11 arrived, so I was planning to take just what would amount to a
12 morning recess, but I think so that the lunch isn't just
13 sitting there we'll go ahead and actually take the lunch break
14 now. And one of the positive aspects of bringing lunch in for
15 the jurors is that we can take a shorter break and pick up.

16 Ms. Smith, I think we're going to stop and take the
17 lunch break, which will mean that that the juror who is with
18 you and who is on deck should instead be returned to the
19 fourth floor.

20 THE CLERK: Yes.

21 THE COURT: So that that juror can take lunch. And
22 then we will resume here in 45 minutes at 12:45 p.m. and
23 what's -- let's see how long have we been convened has it been
24 over two hours? Okay. We will take the lunch break and
25 resume at 12:45.

1 The defendants are remanded to the custody of the
2 Marshal to be returned to this courtroom at 12:45. We're in
3 recess.

4 (A recess was taken.)

5 THE COURT: We're ready for Juror No. 6, Ms. Smith.
6 Please bring us Juror No. 6.

7 THE CLERK: Please raise your right hand.

8 JUROR NO. 6,
9 called as a witness, being first duly sworn, was examined and
10 testified as follows:

11 THE WITNESS: Yes.

12 THE CLERK: Thank you.

13 EXAMINATION

14 BY THE COURT:

15 Q. Good afternoon, ma'am.

16 A. Good afternoon.

17 Q. You are Juror No. 6 from the trial of the United States
18 versus Gerald Johnson, JKB-16-363; is that correct?

19 A. Yes.

20 Q. Between November 20th, 2017 and January 25th, 2018, you
21 served as a juror in the trial of the United States versus
22 Gerald Johnson, et al., case number JKB-16-0363. I was the
23 judge who presided during that trial. Do you remember me?

24 A. Yes, I do.

25 Q. Okay. We were in a different courtroom but same judge;

1 right?

2 **A.** Yes.

3 **Q.** Okay. Also here with us today are attorneys who represent
4 the parties in this case. First of all, Assistant U.S.
5 Attorney Martinez and Assistant U.S. Attorney Hoffman
6 represent the government. Mr. Enzinna and Mr. O'Toole
7 represent Mr. Johnson. Mr. Bussard represents Mr. Jones.
8 Ms. Wicks and Mr. Nieto represent Mr. McCants. Do you
9 remember your service as a juror in this case?

10 **A.** Yes, I do.

11 **Q.** The trial lasted for many weeks. During the trial some
12 concerns were raised, such as defendants passing notes,
13 looking at jurors, and having access to juror information
14 through the juror selection process known as voir dire. The
15 Court addressed these concerns without pausing the trial.

16 Then on January 9, 2018, an event occurred, which caused
17 the trial to briefly pause. One of your fellow jurors, in the
18 presence of at least some of the rest of the jurors and
19 alternates, expressed concern that persons, perhaps a
20 defendants' family members, might be taking pictures of the
21 jurors as they passed through the vestibule at the entrance of
22 the courtroom and the jury room. We understand that juror may
23 have seen this as a significant event. A few minutes later
24 you were interviewed by court staff about that event.

25 A day later, on January 10, 2018, I spoke to the jury in

1 the courtroom and said: One or more jurors had a concern that
2 perhaps someone outside of the jury room, in the courtroom
3 vestibule or courtroom hallway had photographed or otherwise
4 captured the images of jurors. This matter was investigated
5 after that report was received. The investigation included
6 the examination of a relevant smart phone, camera-type device
7 in the possession of a relevant individual. That
8 investigation revealed that there were no images, films,
9 videos of the sort that I have referred to captured on that
10 telephone.

11 Today, I have some questions for you about the events of
12 January 9, 2018. Specifically, I need your assistance in
13 learning whether the events of that day impacted your ability
14 to continue to be a fair and impartial juror for the remainder
15 of the trial.

16 The lawyers I introduced earlier are not here to ask
17 you questions, only the Court will do that, only me, but the
18 lawyers are here to represent the interests of their clients
19 and to propose follow-up questions that the Court may or may
20 not ask in my discretion. As you respond to my questions,
21 please be careful not to tell us about the jury's
22 deliberations on the defendants' guilt or innocence, or about
23 how you reached your verdict. We don't want to hear anything
24 about that.

25 Do you remember this event on January 9?

1 **A.** Yes, I do.

2 **Q.** Did you see anyone engaged in any action that suggested
3 they were taking pictures of the jurors?

4 **A.** No, I didn't.

5 **Q.** Did you hear any juror make statements indicating his or
6 her belief that persons might be taking pictures of jurors,
7 and if so what do you remember hearing?

8 **A.** Yes, I did.

9 **Q.** Tell us about that?

10 **A.** Pretty much were concerned about what might have been
11 happening. And they felt kind of, I guess, concerned about it
12 and told everyone and was just like, you know, maybe we need
13 to bring this up to someone because this is what I saw and
14 it's concerning.

15 **Q.** Okay. So you kind of answered my next question, but I'm
16 going to ask it any way in case you want to add something to
17 it, do you recall which jurors raised concerns regarding
18 potential picture taking?

19 **A.** Yes, I do.

20 **Q.** Tell us what you remember about that?

21 **A.** Do you mean --

22 **Q.** Do you remember the identity of the person? If not, I
23 don't want you to really say somebody's name, but maybe you
24 could describe them if you know like where they sat in the
25 jury box, like what juror number they were, or maybe you can

1 describe them by their gender or by their race or by their age
2 or anything like that?

3 **A.** Okay. I would say he's older, a male -- older.

4 **Q.** That's fine. I'm older too, that's just perfectly fine.

5 **A.** Yes. I don't remember the juror number, but I think -- I
6 don't really remember the number that he was. But I don't
7 know if he stayed the whole time. I think there was -- I
8 think he might have left early, I think, at some point.

9 **Q.** Okay. Do you remember his race or anything else about his
10 physical appearance?

11 **A.** I believe he's Indian American.

12 **Q.** Indian American, okay. How would you describe his skin
13 complexion or color?

14 **A.** Dark.

15 **Q.** Okay. Did anyone, including you, request -- let me
16 rephrase that. Did anyone, including yourself, suggest these
17 concerns should be raised to the Court?

18 **A.** I'm sorry, can you repeat it.

19 **Q.** Did anyone, including yourself, suggest these concerns
20 should be reported to the Court?

21 **A.** Yes. We pretty much, you know, if that's happening
22 someone should know about it. So I think he had reported that
23 happening.

24 **Q.** He referring to the juror that we were just talking about
25 a minute ago?

1 **A.** Yeah.

2 **Q.** Okay. And I've sort of already asked this, but again, it
3 might spark more memories of yours, so I'm going to ask again,
4 did you hear or participate in discussion among the jurors
5 about the possibility of picture taking, can you remember what
6 was said. And I recognize you've already told us some things,
7 but is there anything else that comes to your mind?

8 **A.** Only when we were like on our break, I think --

9 **Q.** Little bit closer to the microphone so we can all hear?

10 **A.** I think it was during the break, like afterwards I believe
11 he said I think someone was taking pictures of us. I think we
12 need to mention this. And at the time I think the person or
13 the coordinator was the one that talked to us, or I guess he
14 addressed it to. But I don't remember --

15 **Q.** You say "coordinator," you mean someone from court staff
16 or someone who's on the jury?

17 **A.** The Court staff.

18 **Q.** Okay.

19 **A.** But I don't necessarily remember the actual conversation,
20 but I do remember after the break all of us going back into
21 the courtroom and then it was addressed.

22 **Q.** In responding to the next questions, I'm going to ask --
23 I'm going to again ask you to draw a line between events that
24 occurred prior to the start of your deliberations and events
25 that happened after you began your deliberations. By

1 deliberations, I mean that point in the trial when no more
2 evidence was presented, the lawyers have made their arguments
3 and I have read the jury instructions to you. That's the
4 point when deliberations began. And I don't want to hear
5 anything about that. Just the matters that came before that.

6 So, all of your answers to these questions should be
7 limited to events that occurred and things that you thought or
8 felt before you began deliberations. To reiterate, in your
9 answers to these questions, you should not tell us anything
10 about what happened, what was said, what you thought or what
11 you felt, after deliberations began. Okay.

12 After any discussion about possible picture taking on
13 January 9 and 10, did you feel intimidated by anything that
14 had occurred?

15 **A.** Well, naturally, I think we were all just kind of nervous
16 just being in that environment, but it didn't impact
17 anything.

18 **Q.** Were you able to remain an impartial juror and were you
19 able to keep an open mind as the trial continued after that?

20 **A.** Yes.

21 **Q.** Do you believe the events of January 9 and January 10,
22 2018 left you unable to continue to serve as a fair and
23 impartial juror in the case?

24 **A.** No.

25 **Q.** Do you believe those events left you unable to fully

1 consider the evidence and arguments presented by both sides
2 with an open mind?

3 **A.** No.

4 **Q.** Now, the next thing that's going to happen is we're going
5 to -- I'm going to talk with the lawyers over this little
6 electronic device. You're not going to be able to hear this
7 conversation. We're going to turn on the noise maker so you
8 can't hear. I'm sure you remember that from the trial. So
9 for a few minutes we'll be having a private conversation that
10 you can't hear or participate in. And then when that's
11 finished we'll put these devices down and talk to you a little
12 bit further. So please just be a little bit patient with us
13 because it could take a few minutes, okay?

14 **A.** Okay.

15 (Bench conference on the record.)

16 THE COURT: Mr. Martinez, do you have any follow-up
17 questions?

18 MR. MARTINEZ: No, Your Honor. I don't.

19 THE COURT: Mr. Enzinna, do you have any follow-up
20 questions.

21 MR. ENZINNA: Well, Your Honor, I'm not sure it's a
22 follow-up question, but it was very difficult to hear her, but
23 I thought that she said after the verdict the jurors all
24 discussed the incident, did I mishear?

25 THE COURT: No, she did not say that.

1 MR. ENZINNA: Then I misheard. As far as follow-up
2 questions, she said they were all kind of nervous after this
3 happened. I think she should be asked, did you continue to be
4 nervous as the trial went on? When did you stop being
5 nervous?

6 THE COURT: Thank you, Mr. Enzinna. Do you have any
7 other questions?

8 MR. ENZINNA: That's all, Your Honor.

9 THE COURT: Thank you. I'm not going to ask that
10 question for reasons explained in response to similar requests
11 previously. The witness/juror was quite candid in revealing
12 that the topic once broached gave rise to some nervousness,
13 that there was further interaction with court staff and with
14 the Court itself afterwards. The discussion here in court
15 today has been shifted to the lingering effects of that,
16 whether there was an impact on her ability to be fair, open
17 minded and impartial. Once again, this juror has answered
18 those questions affirmatively that she was able to continue to
19 so serve. And she has answered again with emphasis, without
20 ambivalence, and without equivocation.

21 Accordingly, I believe that the questions as asked
22 fully and fairly raised the issue presented, the relevant
23 question that needed to be answered. And this juror has
24 answered in such a way as to cause me to believe that her
25 response is a complete one and one from which the Court will

1 be able to make a well-informed determination as to whether or
2 not the government is able -- has been able to demonstrate
3 that she continued to function impartially and fairly as a
4 juror and with an open mind or was not able to.

5 Mr. Bussard, questions?

6 MR. BUSSARD: No questions. Thank you.

7 THE COURT: Mr. Bussard, I didn't hear you.

8 MR. BUSSARD: No questions. Thank you.

9 THE COURT: No questions from Mr. Bussard.

10 Ms. Wicks, any questions?

11 MR. NIETO: No, Your Honor.

12 THE COURT: Mr. Nieto handling this witness. No
13 questions from Mr. Nieto on behalf of Mr. McCants. Thank you.
14 We'll go back to the open record.

15 (The following proceedings were had in open court.)

16 THE COURT: Thank you, Juror No. 6. We are now
17 finished and you will be permitted to leave. But first I want
18 to thank you for coming back these many years later to answer
19 these questions. I applaud your citizenship and your service
20 as a juror and as a returner today. Thank you very much for
21 being willing to do that. You may now depart. Take all of
22 your things with you so you don't inadvertently leave
23 something behind. And you may leave the courthouse. You are
24 finished here. Thank you, ma'am.

25 THE WITNESS: Thank you.

(Juror No. 7 entered the courtroom.)

THE CLERK: Raise your right hand please.

JUROR NO. 7,

called as a witness, being first duly sworn, was examined and testified as follows:

THE WITNESS: Yes.

THE CLERK: Thank you.

THE COURT: Good afternoon, ma'am.

EXAMINATION

BY THE COURT:

A. Hello.

Q. You served as Juror No. 7 in the trial of the case of United States versus Johnson, case number JKB-16-363; is that correct?

A. Yes, sir.

Q. Between November 20, 2017 and January 25, 2018, you served as a juror in the trial of the United States versus Gerald Johnson, et al., case number JKB-16-0363. I was the judge who presided during that trial, perhaps you remember me?

A. Yes.

Q. Okay. We're in a different courtroom now, but same judge; right?

A. Yes.

Q. Okay. Also here with us today are attorneys who represent the parties in the case. First, we have Assistant U.S.

1 Attorney Martinez who represents the government. Assistant
2 U.S. Attorney Hoffman who also represents the government. We
3 have Mr. Enzinna and Mr. O'Toole who represent Mr. Johnson.
4 We have Mr. Bussard who represents Mr. Jones. Mr. Bussard is
5 all the way in the back right corner there. And then
6 Ms. Wicks and Mr. Nieto who represent Mr. McCants, even a
7 little bit further to your right.

8 Do you remember your service as a juror in this case?

9 **A.** Yes.

10 **Q.** The trial lasted for many weeks. During the trial some
11 concerns were raised, such as defendants passing notes,
12 looking at jurors, and having access to juror information
13 through the juror selection process known as voir dire. The
14 Court addressed these concerns without pausing the trial.

15 Then on January 9, 2018, an event occurred which caused
16 the trial to briefly pause. One of your fellow jurors, in the
17 presence of at least some of the rest of the jurors and
18 alternates, expressed concern that persons, perhaps a
19 defendants' family members, might be taking pictures of the
20 jurors as they passed through the vestibule at the entrance to
21 the courtroom and the jury room. We understand that that
22 juror may have seen this as a significant event. A few
23 minutes later you were interviewed by court staff about that
24 event.

25 A day later, on January 10, 2018, I spoke to the jury in

1 the courtroom and said: One or more jurors had a concern that
2 perhaps someone outside of the jury room, in the courtroom
3 vestibule or courtroom hallway, had photographed or otherwise
4 captured the images of jurors. This matter was investigated
5 after that report was received. The investigation included
6 the examination of a relevant smart phone, camera-type device
7 in the possession of a relevant individual. That
8 investigation revealed that there were no images, films,
9 videos of the sort that I have referred to captured on that
10 telephone.

11 Today, I have some questions for you about the events of
12 January 9, 2018. Specifically, I need your assistance in
13 learning whether the events of that day impacted your ability
14 to continue to be a fair and impartial juror for the remainder
15 of that trial.

16 **A.** No, sir.

17 **Q.** I understand your answer, but I have a little bit more to
18 ask you, so bear with me, okay? The lawyers I introduced
19 earlier are not here to ask you questions, only the Court will
20 do that, only me. But the lawyers are here to represent the
21 interests of their clients and to propose follow-up questions
22 that the Court may or may not ask in my discretion. As you
23 respond to my questions, please be careful not to tell us
24 about the jury's deliberations on the defendants' guilt or
25 innocence, or about how you reached your verdict.

1 Do you remember this event on January 9th?

2 **A.** I remember the gentleman who claimed he saw, he thought,
3 somebody taking pictures.

4 **Q.** Okay. Did you see anyone engaged in any action that
5 suggested that they were taking pictures of the jurors?

6 **A.** No.

7 **Q.** Did you hear any juror make statements indicating his or
8 her belief that persons might be taking pictures of jurors and
9 if so, what do you remember hearing?

10 **A.** I just remember the gentleman who was dismissed being very
11 concerned and, you know, just a little scared.

12 **Q.** Do you recall which jurors raised the questions regarding
13 the potential picture taking? So you've referred to this
14 gentleman, was there anybody else?

15 **A.** I don't really recall.

16 **Q.** Did anyone, including yourself, suggest these concerns
17 should be reported to the Court?

18 **A.** I did not, but there may have been someone else in the
19 jury room who suggested that.

20 **Q.** Okay. Did you otherwise hear or participate in discussion
21 among the jurors about the possibility of picture taking, and
22 can you remember just in general whatever was said, if you can
23 remember?

24 **A.** I can't. I'm sorry.

25 **Q.** Okay. In responding to the next questions, I am going to

1 again ask you to draw a line between events that occurred
2 prior to the start of deliberations and events that happened
3 after you began deliberations. By deliberations, I mean that
4 point in the trial when no more evidence was presented, the
5 lawyers had made their arguments, and I had read the jury
6 instructions to you. That's the point when deliberations
7 began. I don't want to hear anything about that. Just
8 matters that came before that.

9 So, all of your answers to these questions should be
10 limited to events that occurred, and things that you thought
11 or felt before you began deliberations. To reiterate, in your
12 answers to these questions you should not tell us anything
13 about what happened, what was said, what you thought or what
14 you felt after deliberations began.

15 First question, after-any discussion about possible
16 picture taking on January 9 and 10, did you feel intimidated
17 by anything that had occurred?

18 **A.** No, sir.

19 **Q.** Were you able to remain an impartial juror and were you
20 able to keep an open mind as the trial continued after that?

21 **A.** Yes, sir.

22 **Q.** Do you believe the events of January 9 and January 10,
23 2018, left you unable to serve as a fair and impartial juror
24 in the case?

25 **A.** No, sir.

1 Q. Do you believe those events left you unable to fully
2 consider the evidence and arguments presented by both sides
3 with an open mind?

4 A. It did not leave me to feel I could not have an open
5 mind.

6 Q. Should I restate the question? Would that be helpful to
7 you?

8 A. Yes, please.

9 Q. Did the events of January 9 and January 10 leave you
10 unable to fully consider the evidence and arguments presented
11 by both sides with an open mind?

12 A. No, sir.

13 Q. The next thing that's going to happen is that we're going
14 to take a brief pause where I'm going to talk to the lawyers
15 through this electronic device. You're not going to be able
16 to hear that part of the conversation, instead we're going to
17 turn on the little noise maker in the courtroom so that you
18 can't hear. You remember that from the trial. We'll turn
19 that on. I'll talk to the lawyers in private. And then I'll
20 have more to say to you when I've completed that. So just, if
21 you would, be patient with us a few minutes while we do that.
22 Okay?

23 A. Yes, sir.

24 (Bench conference on the record.)

25 THE COURT: Mr. Martinez, do you have any follow-up

1 questions?

2 MR. MARTINEZ: No.

3 THE COURT: Mr. Enzinna, do you have any follow-up
4 questions?

5 MR. ENZINNA: No, Your Honor.

6 THE COURT: Mr. Bussard, do you have any follow-up
7 questions?

8 MR. BUSSARD: No, Your Honor.

9 THE COURT: Ms. Wicks or Mr. Nieto, do you have any
10 follow-up questions?

11 MR. NIETO: No, Your Honor.

12 THE COURT: Thank you.

13 (The following proceedings were had in open court.)

14 THE COURT: Juror No. 7, we are finished. Thank you
15 so much for returning in response to your summons. Thank you
16 for your good citizenship, first in responding to the juror
17 summons in the first place and for participating in the
18 earlier trial and then for returning when we asked you to on
19 this occasion. We are grateful. You are a good citizen.
20 Please gather up all of your things. The Court clerk will
21 take you to the door. You may depart and leave the
22 courthouse. You are finished.

23 THE WITNESS: Thank you.

24 THE COURT: Thank you, ma'am.

25 (Juror No. 8 entered the courtroom.)

JUROR NO. 8,

called as a witness, being first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

THE CLERK: Thank you. You may put your hand down.

THE COURT: Good afternoon.

THE WITNESS: Good afternoon.

EXAMINATION

BY THE COURT:

Q. You were and are Juror No. 8 from the trial of the United States versus Johnson a few years ago; is that correct?

A. Yes.

Q. Between November 20, 2017 and January 25, 2018, you served as a juror in the trial of the United States versus Gerald Johnson, et al., case number JKB-16-0363. I was the judge who presided during that trial, perhaps you remember me?

A. Uh-huh.

Q. Same judge, different courtroom?

A. (No verbal response.)

Q. Okay. Also here with us today are attorneys who represent the parties in this case. First for the Government, Assistant U.S. Attorney Martinez and Assistant U.S. Attorney Hoffman.

A. Uh-huh.

Q. Also here on behalf of Mr. Johnson, Mr. Enzinna and Mr.

1 O'Toole. On behalf of Mr. Jones, Mr. Bussard is here. And
2 representing Mr. McCants, Ms. Wicks and Mr. Nieto are here.

3 Do you remember your service as a juror in that case?

4 **A.** Yes.

5 **Q.** The trial lasted for many weeks. During the trial some
6 concerns were raised, such as defendants passing notes,
7 looking at jurors, and having access to juror information
8 through the juror selection process known as voir dire. The
9 Court addressed these concerns without pausing the trial.

10 Then on November 9 -- excuse me, on January 9, 2018, an
11 event occurred, which caused the trial to briefly pause. One
12 of your fellow jurors, in the presence of at least some of the
13 rest of the jurors and alternates, expressed concern that
14 persons, perhaps a defendants' family members, might be taking
15 pictures of the jurors as they passed through the vestibule at
16 the entrance to the courtroom and the jury room. We
17 understand that juror may have seen this as a significant
18 event. A few minutes later you were interviewed by court
19 staff about that event.

20 A day later, on January 10, 2018, I spoke to the jury in
21 the courtroom and said: One or more jurors had a concern that
22 perhaps someone outside of the jury room, in the courtroom
23 vestibule or courtroom hallway, had photographed or otherwise
24 captured the images of jurors. This matter was investigated
25 after that report was received. The investigation included

1 the examination of a relevant smart phone, camera-type device,
2 in the possession of a relevant individual. That
3 investigation revealed that there were no images, films,
4 videos of the sort that I have referred to captured on that
5 telephone.

6 Today, I have some questions for you about the events of
7 January 9, 2018. Specifically --

8 **A.** Okay.

9 **Q.** -- I need your assistance in learning whether the events
10 of that day impacted your ability to continue to be a fair and
11 impartial juror for the remainder of the trial.

12 The lawyers I introduced earlier are not here to ask you
13 questions, only the Court will do that, only me. But the
14 lawyers are here to represent the interests of their clients
15 and to propose follow-up questions that the Court may or may
16 not ask you in its discretion. As you respond to my
17 questions, please be careful not to tell us about the jury's
18 deliberations on the defendants' guilt or innocence, or about
19 how you reached your verdict. We don't want to know about
20 that.

21 **A.** Okay.

22 **Q.** Do you remember the event on January 9th?

23 **A.** I do.

24 **Q.** Did you see anyone engaged in any action that suggested
25 that they were taking pictures of the jurors?

1 **A.** I did not.

2 **Q.** Did you hear any jurors make statements indicating his or
3 her belief that persons might be taking pictures of the
4 jurors, and if so, what do you remember hearing?

5 **A.** Honestly, I don't recall. I know that that happened. I
6 don't remember hearing that directly. I remember hearing that
7 third-hand.

8 **Q.** And when you say third hand, perhaps from other jurors or
9 alternates?

10 **A.** Yes.

11 **Q.** Is that a fair statement?

12 **A.** Yes.

13 **Q.** So let me be more precise and ask you exactly, do you
14 recall which jurors raised concerns regarding potential
15 picture taking?

16 **A.** I don't.

17 **Q.** Did anyone, including yourself, suggest that these
18 concerns should be reported to the Court?

19 **A.** There -- in that third hand conversation, somebody said
20 something about it, yes.

21 **Q.** Okay. Did you hear or participate in discussion among the
22 jurors about the possibility of the picture taking, and if
23 so -- and I realize I'm asking you again and again, but still,
24 can you remember what was said? And I don't want to put any
25 words in your mouth and your memories are what they are, but

1 whatever they are we would like to know what's in your
2 memory?

3 **A.** I remember that somebody said one of the other jurors, and
4 I believe it was one of the gentleman, thought he saw someone
5 taking pictures and was concerned, and it was going to be
6 brought to Camille's attention, your attention.

7 **Q.** And by Camille are you referring to Camille Powell, who
8 was serving as the courtroom deputy clerk during the trial?

9 **A.** Yes.

10 **Q.** Okay. In responding to the next questions, I'm going to
11 again ask you to draw a line between events that occurred
12 prior to the start of your deliberations and events that
13 happened after you began deliberations. By deliberations, I
14 mean that point in the trial when no more evidence was
15 presented, the lawyers had made their arguments, and I had
16 read the jury instructions to you. That's the point at which
17 deliberations began. And I don't want to hear anything about
18 that. Just the matters that came before that?

19 **A.** Okay.

20 **Q.** So all of your answers to these questions should be
21 limited to events that occurred, and things that you thought
22 or felt before you began deliberations. To reiterate, in your
23 answers to these questions, you should not tell us anything
24 about what happened, what was said, what you thought or what
25 you felt after deliberations began?

1 **A.** Okay.

2 **Q.** After any discussion about possible picture taking on
3 January 9 or 10, did you feel intimidated by anything that had
4 occurred?

5 **A.** No.

6 **Q.** Were you able to remain an impartial juror and were you
7 able to keep an open mind as the trial continued after that?

8 **A.** Yes.

9 **Q.** Do you believe the events of January 9 and January 10,
10 2018, left you unable to continue to serve as a fair and
11 impartial juror in the case?

12 **A.** No.

13 **Q.** Do you believe that those events left you unable to fully
14 consider the evidence and arguments presented by both sides
15 with an open mind?

16 **A.** No.

17 **Q.** The next part of this process is going to occur privately,
18 with me talking on this electronic device to just the lawyers.
19 You won't be able to hear what's going on, instead you're
20 going to hear the courtroom noise maker which you sometimes
21 heard during the trial. And then when I'm finished talking
22 with the lawyers, I'll have more to talk to you about. So
23 please be patient with us for just a few minutes while I have
24 this private conversation outside of your hearing; is that
25 okay?

1 **A.** Uh-huh.

2 (Bench conference on the record.)

3 THE COURT: Mr. Martinez, do you have any follow-up
4 questions?

5 MR. MARTINEZ: No, I don't.

6 THE COURT: Mr. Enzinna, do you have any follow-up
7 questions?

8 MR. ENZINNA: No, Your Honor. But I would like to
9 note for the record to the extent the juror's affect is
10 relevant, I just want to note the lengthy pause between the
11 question and the answer on the question whether or not this
12 juror felt intimidated.

13 THE COURT: I concur. She did pause and appeared to
14 give that question serious reflection before she answered.

15 Any other questions, Mr. Enzinna?

16 MR. ENZINNA: No, Your Honor.

17 THE COURT: Mr. Bussard, do you have any follow-up
18 questions.

19 MR. BUSSARD: No, Your Honor.

20 THE COURT: Ms. Wicks or Mr. Nieto, do you have any
21 follow-up questions?

22 MR. NIETO: No, Your Honor.

23 THE COURT: Thank you. We'll go back to the open
24 channel.

25 (The following proceedings were had in open court.)

1 THE COURT: Thank you, Juror No. 8. We are now
2 finished. We appreciate your returning to court in response
3 to this additional summons and to coming in and answering
4 questions. Jury service is a burden. There's no question
5 about it. But we appreciate your willingness to shoulder that
6 burden. You are a good citizen. Thank you very much. You
7 may gather up all of your things. The courtroom clerk will
8 take you out and you are free to leave the courthouse. Thank
9 you, ma'am.

10 (Juror No. 9 entered the courtroom.)

11 JUROR NO. 9,
12 called as a witness, being first duly sworn, was examined and
13 testified as follows:

14 THE WITNESS: Yes.

15 THE CLERK: Thank you. You can put your hand
16 down.

17 EXAMINATION

18 BY THE COURT:

19 **Q.** Good afternoon, sir. You are Juror No. 9; is that
20 correct?

21 **A.** Yes.

22 **Q.** Between November 20, 2017 and January 25, 2018, you served
23 as a juror in the trial of the United States versus Gerald
24 Johnson et al., case number JKB-16-0363. I was the judge who
25 presided during that trial, although it happened in a

1 different courtroom, but do you remember me?

2 **A.** Yes.

3 **Q.** Okay. So same judge but different courtroom?

4 **A.** Right. Yeah, I remember.

5 **Q.** Okay. Also there -- also here with us today are attorneys
6 who represent the parties in the case, Assistant U.S. Attorney
7 Martinez and Assistant U.S. Attorney Hoffman, representing the
8 government. Mr. Enzinna and Mr. O'Toole, representing Mr.
9 Johnson. Mr. Bussard, who's further to your right,
10 representing Mr. Jones. And then all the way to your right,
11 Ms. Wicks and Mr. Nieto representing Mr. McCants.

12 Do you remember your service as a juror in this case?

13 **A.** Yes, I don't remember every detail. But yes, I remember I
14 was a juror.

15 **Q.** The trial lasted for many weeks. During the trial some
16 concerns were raised such as the defendants passing notes,
17 looking at jurors, and having access to juror information
18 through the juror selection process known as voir dire. The
19 Court addressed these concerns without pausing the trial.

20 Then on January 9, 2018, an event occurred, which
21 caused the trial to briefly pause. One of your fellow jurors,
22 in the presence of at least some of the rest of the jurors and
23 the alternates, expressed concern that persons, perhaps a
24 defendant's family members, might be taking pictures of the
25 jurors as they passed through the vestibule at the entrance to

1 the courtroom and the jury room. We understand that juror may
2 have seen this as a significant event. A few minutes later
3 you were interviewed by court staff about that event.

4 A day later, on January 10, 2018, I spoke to jury in
5 the courtroom and said: One or more jurors had a concern that
6 perhaps someone outside of the jury room, in the courtroom
7 vestibule or courtroom hallway, had photographed or otherwise
8 captured the images of jurors. This matter was investigated
9 after that report was received. The investigation included
10 the examination of a relevant smart phone, camera-type device,
11 in the possession of a relevant individual. That
12 investigation revealed that there were no images, films,
13 videos of the sort that I have referred to, captured on that
14 telephone.

15 Today, I have some questions for you about the events of
16 January 9, 2018. Specifically, I need your assistance in
17 learning whether the events of that day impacted your ability
18 to continue to be a fair and impartial juror for the remainder
19 of the trial?

20 **A.** No. No, it did not.

21 **Q.** Okay. Well, there's a little bit more to my question.

22 **A.** Oh, sorry.

23 **Q.** That's fine. Thank you. The lawyers I introduced earlier
24 are not here to ask you questions. Only the court will do
25 that, me.

1 **A.** Okay.

2 **Q.** But the lawyers are here to represent the interests of
3 their clients and propose follow-up questions that the Court
4 may or may not ask you in its discretion. As you respond to
5 my questions, please be careful not to tell us about the
6 jury's deliberations on the defendants's guilt or innocence,
7 or about how you reached your verdict. We don't want to know
8 about that. Do you remember this event on January 9?

9 **A.** Yes.

10 **Q.** Did you see anyone engaged in any action that suggested
11 they were taking pictures of the jurors?

12 **A.** No.

13 **Q.** Did you hear any juror make statements indicating his or
14 her belief that persons might be taking pictures of the
15 jurors, and if so what do you remember hearing?

16 **A.** Yes, I do remember. They said that they suspected it.
17 And I guess they were worried about it. And then I didn't see
18 anything, but and then we got called into the courtroom and
19 they questioned us individually about it. But -- yeah, that's
20 it.

21 **Q.** Okay. Do you recall which jurors raised concerns
22 regarding potential picture taking?

23 **A.** Yes, I remember two.

24 **Q.** Can you describe them?

25 **A.** Yes, one was an African-American female, she had braids in

1 her hair, dark skin. And one I believe he was Indian. And I
2 believe he left. Yeah, he left the jury early. He was
3 Indian. Kind of heavy set.

4 **Q.** Did anyone, including yourself, suggest that these
5 concerns be reported to the Court?

6 **A.** Not that -- no, not that I remember. No.

7 **Q.** Do you -- did you hear or participate in discussion among
8 the jurors about the possibility of picture taking and can you
9 remember anything else that was said? I understand that
10 you've kind of already answered this question, but I'm going
11 to ask it again, just because I want to make sure that we've
12 got everything you remember?

13 **A.** Right. There was no -- I remember them talking about it.
14 And then I guess they suspected something. And they -- it
15 wasn't nothing concrete, but they had suspicions. And then
16 after that I didn't discuss it or know anything about it until
17 we got questioned, brought into the courtroom one by one and
18 we were questioned about it. And I didn't know anything about
19 it really. I didn't suspect anything or -- yeah.

20 **Q.** In responding to the next questions. I am going to again
21 ask you to draw a line between events that occurred prior to
22 the start of your deliberations and events that happened after
23 you began deliberations. By deliberations, I mean that point
24 in the trial when no more evidence was presented, the lawyers
25 had made their arguments, and I had read the jury instructions

1 to you. That's the point when deliberations began. And I
2 don't want to hear anything about that?

3 **A.** Okay.

4 **Q.** Just matters that came before that. So, all of your
5 answers to these questions should be limited to events that
6 occurred and things that you thought or felt before you began
7 deliberations. To reiterate, in your answers to these
8 questions you should not tell us anything about what happened,
9 what was said, what you thought, what you felt after
10 deliberations began?

11 **A.** Okay.

12 **Q.** Are we good?

13 **A.** Yes.

14 **Q.** Okay. After any discussion about possible picture taking
15 on January 9 and 10, did you feel intimidated by anything that
16 had occurred?

17 **A.** No.

18 **Q.** Were you able to remain an impartial juror and were you
19 able to keep an open mind as the trial continued after that?

20 **A.** Yes.

21 **Q.** Do you believe the events of January 9 and January 10 left
22 you know able to continue to serve as a fair and impartial
23 juror in the case?

24 **A.** No.

25 **Q.** Do you believe that those events left you unable to fully

1 consider the evidence and arguments presented by both sides
2 with an open mind?

3 **A.** No.

4 **Q.** The next part of this process is going to occur outside
5 your hearing. I'm going to talk to the lawyers over this
6 electronic device. The courtroom noise machine's going to be
7 turned on so you can't hear anything, white noise, you
8 remember that from the trial.

9 **A.** Yes.

10 **Q.** We'll do that for a little bit while I talk to the
11 lawyers. And then when I'm finished I'll talk to you further.
12 It might take a few minutes, so I'm going to ask for a little
13 bit patience from you; is that okay?

14 **A.** Okay.

15 THE COURT: Okay. So let's go on to the courtroom
16 channel, the private channel.

17 (Bench conference on the record.)

18 THE COURT: Mr. Martinez, do you have any follow-up
19 questions?

20 MR. MARTINEZ: No.

21 THE COURT: Mr. Enzinna, do you?

22 MR. ENZINNA: Yes, Your Honor. He mentioned that
23 there were two jurors who spoke about the picture taking, one
24 in addition to Juror No. 4. And I think he should be asked
25 more details about who that person was and what that person

1 said.

2 THE COURT: All right. I'm not certain that it's
3 essential, but he did give some description, but I'll take
4 another stab at it.

5 (The following proceedings were had in open court.)

6 **BY THE COURT:**

7 **Q.** You indicated in one of your answers that it seemed as
8 though two jurors talked about the possibility of picture
9 taking. One you described as I think you might have said an
10 Indian-American male?

11 **A.** Yes.

12 **Q.** And then you may have described another person, a female,
13 who may have been African-American and may have had braids.
14 First of all, is that a fair memory on my part of what your
15 answer was?

16 **A.** Yes.

17 **Q.** Okay. What if anything can you tell us more about the
18 second person, more in terms of anything that you might
19 remember about what she said. Just take a second, pause, and
20 see if your memory comes up with anything else she might have
21 said.

22 **A.** I don't remember the exact words. I think she was a
23 little -- she said -- she may have been a little worried. I
24 guess she was questioning what was going on. Other than that,
25 yeah, I don't know any exact words. I think she just had

1 questions about it and suspicions. But -- and yeah, that's --
2 that's pretty much all I remember. I don't -- yeah.

3 THE COURT: Thank you. We'll go back on to the
4 private channel.

5 (Bench conference on the record.)

6 THE COURT: Mr. Enzinna, do you have any additional
7 follow-up questions?

8 MR. ENZINNA: Yes, Your Honor. I think it would be
9 useful if he were questioned further to the extent he can
10 provide anymore identification of that person.

11 THE COURT: Okay. I'll try.

12 (The following proceedings were had in open court.)

13 **BY THE COURT:**

14 **Q.** And this second person, the African-American female with
15 the braids, do you remember where she was sitting in the jury
16 box during the course of the trial?

17 **A.** I believe -- she was close to me.

18 **Q.** Let's re-orient. You were seated in the back row?

19 **A.** Yeah, okay. Yeah, I was in the back row.

20 **Q.** And was there anyone on your left?

21 **A.** No.

22 **Q.** You had the seat that had the little shelf beside it?

23 **A.** Right.

24 **Q.** Okay.

25 **A.** And I think she was in front of me.

1 Q. In front of you, okay. Directly in front of you?

2 A. Well, like to the left a little or -- yeah, like to --
3 yeah, directly in front of me.

4 Q. Directly in front of you, seated right in front of you?

5 A. Yes.

6 Q. Anything else you remember like about her age, her
7 physical shape and, you know, was she a large person, a small
8 person, an average-sized person?

9 A. She was shorter and I guess she around -- she was a little
10 younger than me. So I'm 38, so she might have been 34, 35.
11 Had darker skin and -- I don't -- I guess about medium size
12 or --

13 Q. Medium size.

14 A. Yes.

15 THE COURT: Okay. Thank you. We're going to go
16 back on our little private chat.

17 (Bench conference on the record.)

18 THE COURT: Mr. Enzinna, do you have any other
19 questions?

20 MR. ENZINNA: No, Your Honor. Thank you.

21 THE COURT: Mr. Bussard, do you have any questions?

22 MR. BUSSARD: No, thank you.

23 THE COURT: Ms. Wicks or Mr. Nieto, any questions?

24 MR. NIETO: No, Your Honor.

25 THE COURT: Thank you. We're back on the Court

1 channel.

2 (The following proceedings were had in open court.)

3 THE COURT: Thank you, Juror No. 9. We are now
4 finished. And you are free to leave. Please gather up all
5 your belongings so you don't leave anything here. Thank you
6 so much for your juror service and for returning in response
7 to this summons as well. You're a good citizen. We
8 appreciate the seriousness with which you are taken all this.
9 You may depart. The courtroom clerk will see you out and you
10 may leave the courthouse. Thank you, sir.

11 (Juror No. 10 entered the courtroom.)

12 THE CLERK: Raise your right hand for me.

13 JUROR NO. 10,
14 called as a witness, being first duly sworn, was examined and
15 testified as follows:

16 THE WITNESS: I do.

17 THE CLERK: Thank you.

18 EXAMINATION

19 BY THE COURT:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. You are Juror No. 10; is that correct?

23 A. Yes.

24 Q. Between November 20, 2017 and January 25, 2018, you served
25 as a juror in the trial of the United States versus Gerald

1 Johnson, et al., case number JKB-16-0363. I was the judge who
2 presided during that trial, perhaps you remember me?

3 **A.** I do.

4 **Q.** Same judge, different courtroom though?

5 **A.** Yes.

6 **Q.** Do you agree with that?

7 **A.** Yes.

8 **Q.** Now, also here with us today are attorneys who represent
9 the parties in this case starting the Assistant U.S. Attorney
10 Martinez and Assistant U.S. Attorney Hoffman who represent the
11 government. Mr. Enzinna and Mr. O'Toole who represent Mr.
12 Johnson. Mr. Bussard who represents Mr. Jones. Ms. Wicks and
13 Mr. Nieto who represent Mr. McCants.

14 Do you remember your service as a juror in that case?

15 **A.** Yes.

16 **Q.** The trial lasted for many weeks, during the trial some
17 concerns were raised, such as defendants passing notes,
18 looking at jurors, and having access to juror information
19 through the jury selection process known as voir dire. The
20 Court addressed these concerns without pausing the trial.

21 Then on January 9, 2018, an event occurred which
22 caused the trial to briefly pause. One of your fellow jurors,
23 in the presence of at least some of the rest of the jurors and
24 alternates, expressed concern that persons, perhaps a
25 defendant's family members, might be taking pictures of the

1 jurors as they passed through the vestibule at the entrance to
2 the courtroom and the jury room. We understand that juror may
3 have seen this as a significant event. A few minutes later
4 you were interviewed by court staff about that event.

5 A day later, on January 10, 2018, I spoke to the jury in
6 the courtroom and said: One or more jurors had a concern that
7 perhaps someone outside of the jury room, in the courtroom
8 vestibule or courtroom hallway, had photographed or otherwise
9 captured the images of jurors. This matter was investigated
10 after that report was received. The investigation included
11 the examination of a relevant smart phone, camera-type device
12 in the possession of a relevant individual. That
13 investigation revealed that there were no images, films,
14 videos of the sort that I have referred to captured on that
15 telephone.

16 Today I have some questions for you about the events of
17 January 9, 2018. Specifically, I need your assistance in
18 learning whether the events of that day impacted your ability
19 to continue to be a fair and impartial juror for the remainder
20 of the trial.

21 The lawyers I introduced earlier are not here to ask you
22 questions, only the Court will do that, me. But the lawyers
23 are here to represent the interests of their clients and to
24 propose follow-up questions that the Court may or may not ask
25 you in its discretion. As you respond to my questions, please

1 be careful not to tell us about the jury's deliberations on
2 the defendants' guilt or innocence or about how you reached
3 your verdict.

4 Do you remember this event on January 9?

5 **A.** Yes.

6 **Q.** Did you see anyone engaged in any action that suggested
7 that they were taking pictures of the jurors?

8 **A.** No.

9 **Q.** Did you hear any juror make statements indicating his or
10 her belief that persons might be taking pictures of jurors,
11 and if so, what do you remember hearing?

12 **A.** I do remember hearing discussions, but I don't remember
13 any specifics. And I don't even remember which juror started
14 the conversation.

15 **Q.** That was exactly where I was going with my next question
16 is, do you recall which jurors raised concerns regarding
17 potential picture taking?

18 **A.** No, sir.

19 **Q.** Did anyone, including yourself, suggest that these
20 concerns should be reported to the Court?

21 **A.** Could you say that again.

22 **Q.** Did anyone, including yourself, suggest that these
23 concerns should be reported to the Court?

24 **A.** I don't remember.

25 **Q.** Did you hear or participate in discussion among the jurors

1 about the possibility of picture taking? And if so, can you
2 remember what was said, what was being said?

3 **A.** No.

4 **Q.** Who was saying what?

5 **A.** No, I -- no.

6 **Q.** Okay. In responding to the next questions, I'm going to
7 again ask you to draw a line between events that occurred
8 prior to the start of your deliberations and events that
9 happened after you began deliberating. By deliberations, I
10 mean that point in the trial when no more evidence was
11 presented, the lawyers had made their arguments, and I had
12 read the jury instructions to you. That's the point when
13 deliberation began. And I don't want to hear anything about
14 that. Just matters that came before that.

15 So, all of your answers to these questions should be
16 limited to events that occurred and things that you thought or
17 felt before you began deliberations. To reiterate, in your
18 answers to these questions, you should not tell us anything
19 about what happened, what was said, what you thought or what
20 you felt after deliberations began.

21 After any discussion about possible picture taking on
22 January 9 and 10, did you feel intimidated by anything that
23 had occurred?

24 **A.** No.

25 **Q.** Were you able to remain an impartial juror and were you

1 able to keep an open mind as the trial continued after that?

2 **A.** Yes.

3 **Q.** Do you believe the events of January 9 and January 10,
4 2018, left you unable to continue to serve as a fair and
5 impartial juror in the case?

6 **A.** No.

7 **Q.** Do you believe those events on January 9 and January 10,
8 left you unable to fully consider the evidence and arguments
9 presented by both sides with an open mind?

10 **A.** No.

11 **Q.** The next part of this process will occur by me talking to
12 the lawyers privately over this little electronic device. And
13 you won't be able to hear that because we're going to turn on
14 the noise maker machine in the courtroom, which I'm sure you
15 remember from the trial, to sort of blank you out, so you
16 can't hear. I'll talk with them. When I'm finished talking
17 with them then I'll speak with you further. This might take a
18 couple of minutes, so please be patient with us.

19 (Bench conference on the record.)

20 THE COURT: Mr. Martinez, do you have any follow-up
21 question?

22 MR. MARTINEZ: No, Your Honor.

23 THE COURT: Mr. Enzinna, do you?

24 MR. ENZINNA: No, Your Honor.

25 THE COURT: I didn't hear you, Mr. Enzinna.

1 MR. ENZINNA: No, Your Honor.

2 THE COURT: Thank you, sir.

3 Mr. Bussard, do you have any follow-up questions?

4 MR. BUSSARD: No, Your Honor.

5 THE COURT: Ms. Wicks or Mr. Nieto, do you have any
6 follow-up questions?

7 MR. NIETO: No, Your Honor.

8 THE COURT: Thank you.

9 (The following proceedings were had in open court.)

10 THE COURT: Sir, we have finished this process. We
11 have no further questions for you. I want to thank you for
12 returning to court in response to our summons. I want to
13 thank you again for your juror service in this case. Jury
14 service is a big burden. And it's one of the more burdensome
15 duties of citizenship, but we need jurors to come forward and
16 to be willing to serve. So once again, on behalf of the
17 Court, I thank you for your service. You are excused. You
18 may depart the courthouse. The courtroom clerk will see you
19 out of the courtroom. Please make sure you pick up all of
20 your things, so you don't accidentally leave something here
21 and you may depart.

22 MS. WICKS: Your Honor, can we take a comfort break
23 before the next juror?

24 THE COURT: Yes. One moment, Ms. Smith. Let's
25 stand by.

1 Five minutes, Ms. Wicks?

2 MS. WICKS: Thank you.

3 THE COURT: Five minutes.

4 (A recess was taken.)

5 THE COURT: All right. We're ready for Juror No.

6 11.

7 JUROR NO. 11,

8 called as a witness, being first duly sworn, was examined and
9 testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Thank you. You may put your hand
12 down.

13 EXAMINATION

14 BY THE COURT:

15 Q. Good afternoon.

16 A. Good afternoon, Your Honor.

17 Q. You are Juror No. 11; is that right?

18 A. That's right.

19 Q. I see a little wire.

20 A. It's my insulin pump.

21 Q. Just wanted to make sure you didn't have a phone.

22 A. No, sir. I can pull it out if you like.

23 Q. Not the slightest concern. I just wanted to make sure
24 we're not recording anything. How are you feeling this
25 afternoon, are you okay?

1 **A.** Little stressed, little frustrated -- not frustrated, but
2 inquisitive, but otherwise okay.

3 **Q.** Is your sugar okay, that's what I --

4 **A.** It's fine. Yes, sir, I'm sorry.

5 **Q.** You're firing on all cylinders?

6 **A.** Yes, sir, I am. My sugar was 163 before I came up here.

7 **Q.** Okay. So between November 20, 2017 and January 25, 2018,
8 you served as a juror in the trial of United States versus
9 Gerald Johnson, et al., case number JKB-16-0363. I was the
10 judge who presided during that trial, perhaps you remember me
11 or perhaps you don't?

12 **A.** Yes, sir, I do.

13 **Q.** Okay. So same judge but a different courtroom?

14 **A.** Yes, sir.

15 **Q.** Okay. Also with us here today are attorneys who represent
16 the parties in the case. Starting with Assistant U.S.
17 Attorney Martinez and Assistant U.S. Attorney Hoffman
18 representing the government. And then Mr. Enzinna and Mr.
19 O'Toole representing Mr. Johnson. Mr. Bussard representing
20 Mr. Jones. And Ms. Wicks and Mr. Nieto representing Mr.
21 McCants. Do you remember your service as a juror in this
22 case?

23 **A.** Yes, sir, I do.

24 **Q.** The trial lasted for many weeks. During the trial some
25 concerns were raised such as defendants passing notes, looking

1 at jurors, and having access to juror information through the
2 juror selection process known as voir dire. The Court
3 addressed these concerns without pausing the trial.

4 Then, on January 9, 2018, an event occurred which caused
5 the trial the briefly pause. One of your fellow jurors, in
6 the presence of at least some of the rest of the jurors and
7 alternates, expressed concerns that persons, perhaps
8 defendant's family members might be taking pictures of the
9 jurors as they passed through the vestibule at the entrance to
10 the courtroom and the jury room. We understand that juror may
11 have seen this as a significant event. A few minutes later
12 you were interviewed by court staff about that event.

13 A day later, on January 10, 2018, I spoke to the jury in
14 the courtroom and said: One or more jurors had a concern that
15 perhaps someone outside of the jury room, in the courtroom
16 vestibule or courtroom hallway, had photographed or otherwise
17 captured the images of jurors. This matter was investigated
18 after that report was received, the investigation included the
19 examination of a relevant smart phone, camera-type device in
20 the possession of a relevant individual. That investigation
21 revealed that there were no images, films, videos of the sort
22 that I have referred to captured on that telephone.

23 Today, I have some questions for you --

24 **A.** Yes, sir.

25 **Q.** -- about the events of January 9, 2018. Specifically, I

1 need your assistance in learning whether the events of that
2 day impacted your ability to continue to be a fair and
3 impartial juror for the remainder of the trial.

4 The lawyers I introduced earlier are not here to ask you
5 questions, only the Court will do that, me. But the lawyers
6 are here to represent the interests of their clients and to
7 propose follow-up questions that the Court may or may not ask
8 in its discretion.

9 **A.** Yes, sir.

10 **Q.** As you respond to my questions, please be careful not to
11 tell us about the jury's deliberations on the defendants'
12 guilt or innocence, or about how you reached your verdict. We
13 don't want to hear about that.

14 **A.** Yes, sir.

15 **Q.** Do you remember the event of January 9, 2018 that I'm
16 referring to?

17 **A.** I remember the event. I don't remember the exact date.

18 **Q.** Okay. Did you see anyone engaged in any action that
19 suggested they were taking pictures of the jurors?

20 **A.** There was -- yes, there was someone sitting outside, right
21 across from where we would go in and out, with a camera that
22 would seem to be taking pictures or videos, I mean, the way it
23 was sitting.

24 **Q.** Uh-huh. Did you hear any other jurors make any statements
25 indicating their belief that persons might be taking pictures

1 of jurors?

2 **A.** There were two or three others that had -- maybe more, I
3 don't remember exactly how many. But yeah, there were some
4 that had said something about it.

5 **Q.** What do you remember hearing?

6 **A.** Just that, was that -- was she there taking pictures. I
7 believe it was a woman. I'm sorry, it was three and a half
8 years ago.

9 **Q.** Absolutely. Take your time.

10 **A.** I believe they were saying something about there was
11 someone out there, was she taking pictures. There was some
12 concern she was taking pictures, but nothing more than that
13 that I remember.

14 **Q.** So do you recall which jurors raised questions regarding
15 the potential picture taking, if you're able?

16 **A.** No, sir. I'm sorry. It was just kind of general comments
17 made here and there.

18 **Q.** Did anyone, including yourself, suggest these concerns
19 should be reported to the Court?

20 **A.** My belief -- not my belief, excuse me, my remembrance was
21 that someone had reported it, had said that he had gone and
22 talked to -- again, forgive me, but the woman that was
23 handling us, for lack of a better word. You know, the one
24 that we were talking to.

25 **Q.** The Court staff person?

1 **A.** Yes. Yes, sir, I'm sorry. That they had gone and talked
2 to them and told them about the pictures. I don't remember
3 which one of the jurors it was. I didn't -- well, you ask,
4 I'm sorry.

5 **Q.** If you were going to say something else, go ahead. I
6 don't want to cut you off.

7 **A.** At the time I remember it was like -- it wasn't like a,
8 oh, my gosh, someone's taking pictures. They were just kind
9 of like, what are they doing? Are they taking pictures of us?

10 **Q.** That is where I was going to go with my next question,
11 what did you hear? What discussion did you participate in, if
12 any, among the jurors about the possibility of picture taking?
13 We're just asking what you remember in that regard, so perhaps
14 you've said everything you remember, perhaps you have more?

15 **A.** Just basically people were talking about she taking --
16 again, I believe it was a woman -- was she taking pictures,
17 you know, and what were they for basically. We didn't know
18 who the person was. We didn't know what the connection was or
19 anything. No one said anything about what the connection was
20 or who she was, they were just wondering.

21 **Q.** In responding to the next questions, I'm going to again
22 ask you to draw a line between events that occurred prior to
23 the start of your deliberations and events that happened after
24 you began deliberations.

25 **A.** Yes, sir.

1 Q. By deliberations, I mean that point in the trial when no
2 more evidence was presented, the lawyers had made their
3 arguments, and I had read the jury instructions to you.
4 That's the point when deliberations began. And I don't want
5 to hear anything about that. Just about matters that came
6 before that.

7 So, all of your answers to these questions should be
8 limited to events that occurred, and things that you thought
9 or felt before you began deliberations. To reiterate, your
10 answers to these questions -- in your answers to these
11 questions, you should not tell us anything about what
12 happened, what was said, what you thought or what you felt
13 after deliberations began?

14 A. Yes, sir.

15 Q. You good with that?

16 A. Yes, sir.

17 Q. Okay. After any discussion about possible picture taking
18 on January 9 and 10, did you feel intimidated by anything that
19 had occurred?

20 A. No, sir. We actually felt -- we felt it was handled when
21 they started not taking -- not allowing anyone to take cameras
22 or phones into the courtroom.

23 Q. Were you able to remain an impartial juror and were you
24 able to keep an open mind as the trial continued after that?

25 A. Yes, sir. That -- didn't really think twice about it once

1 we knew that the cameras weren't coming back in.

2 **Q.** Do you believe that the events of January 9 and January
3 10, 2018, left you unable to continue to serve as a fair and
4 impartial juror in the case?

5 **A.** No, sir, I do not.

6 **Q.** Do you believe those events left you unable to fully
7 consider the evidence and arguments presented by both sides
8 with an open mind?

9 **A.** No, I don't believe it stopped me from keeping an open
10 mind, if that's the question.

11 **Q.** Well, that is the question.

12 **A.** Yeah. No, I don't believe it stopped me from keeping an
13 open mind.

14 **Q.** Okay. The next portion of the proceeding involves me
15 using this electronic device to talk to the lawyers, outside
16 of your hearing. So we're going to turn on the noise machine
17 so that you can't hear.

18 **A.** I remember them well, sir.

19 **Q.** I bet you do. And we're going to -- that's all you're
20 going to hear is that white noise. I'm going to have a
21 private conversation with them. And then when I'm finished
22 I'm going to talk with you more. I just request your patience
23 for a couple minutes while I do this.

24 **A.** Your Honor, that's fine. Thank you.

25 THE COURT: Okay.

(Bench conference on the record.)

THE COURT: Mr. Martinez, do you have any follow-up questions?

MR. MARTINEZ: No.

THE COURT: Mr. Enzinna, do you?

MR. ENZINNA: Yes, Your Honor. I do.

THE COURT: Go ahead.

MR. ENZINNA: He said that when the --

THE COURT: You've got to get closer to the mike.

MR. ENZINNA: He said that when the picture taking occurred --

THE COURT: You're still not quite close enough. Pull that mike.

MR. ENZINNA: He said that when the picture taking occurred, his reaction and possibly the other jurors reaction was one of curiosity, they were wondering why someone was taking pictures. I think he ought to be asked whether or not the jurors connected this event to the prior incidents in which they had reported concerns to the Court. I think he also should be asked whether he heard anyone describe the event as "serious."

THE COURT: Thank you, Mr. Enzinna. I decline to ask the first question, which I think leads him. But I will ask the second. Let's go back on the Court channel.

(The following proceedings were had in open court.)

1 **BY THE COURT:**

2 **Q.** In the various discussions that you kind of overheard from
3 that time period, do you remember anyone describing the
4 incident as "serious," this is serious? Was anything like
5 that said or do you have any memory of that?

6 **A.** No, um -- I'm just thinking back. Excuse me for one
7 second.

8 **Q.** Take your time.

9 **A.** I don't -- no, not really. Not anything -- you know, the
10 camera was mentioned. It was mentioned about, you know,
11 wonder what they were doing, why they were doing it, but
12 nothing like being intimidated or afraid or scared or anything
13 like that.

14 THE COURT: Okay. Thank you. We'll go back on to
15 the private channel.

16 (Bench conference on the record.)

17 THE COURT: Mr. Enzinna, do you have any additional
18 questions?

19 MR. ENZINNA: No, Your Honor.

20 THE COURT: Thank you.

21 Mr. Bussard, do you have any questions?

22 MR. BUSSARD: No, Your Honor.

23 THE COURT: Ms. Wicks or Mr. Nieto, do you have any
24 additional questions?

25 MR. NIETO: No, Your Honor.

1 THE COURT: Thank you.

2 (The following proceedings were had in open court.)

3 THE COURT: Juror No. 11, we're at the end of this
4 process now. We are finished and you are free to leave.
5 Please, as you leave, know that it is with the Court's thanks
6 and gratitude. We recognize that jury service is a big
7 burden. And that it is, while one of the most important
8 duties of U.S. citizenship, it is an important one. So thank
9 you for shouldering that burden and responding to your summons
10 first three years ago and now, again, you've come back down.
11 We're grateful for that. And this is essential that citizens
12 do this from time to time.

13 THE WITNESS: Yes, sir.

14 THE COURT: Thank you so much. Please make sure you
15 pick up all of your belongings. The courtroom clerk will take
16 you out of the courtroom and you may leave the courthouse.
17 You are finished. Thank you, sir.

18 THE WITNESS: Will this be the last -- this incident
19 the last contact we'll have with the Court?

20 THE COURT: You know, I am one of those people that
21 doesn't have a crystal ball and never predicts anything for
22 the future, or makes any absolute statements or whatever else,
23 but as far as the current proceeding that is underway, I do
24 not anticipate needing any further contact with you.

25 THE WITNESS: Okay. Thank you, Your Honor.

1 THE COURT: Thank you, sir.

2 (Alternate Juror No. 3 entered the courtroom.)

3 THE COURT: You may be seated, ma'am, then we'll
4 have you raise -- these are new COVID rules. We get everybody
5 seated first and then we swear them.

6 THE CLERK: Good afternoon.

7 ALTERNATE JUROR NO. 3,
8 called as a witness, being first duly sworn, was examined and
9 testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Thank you. You may put your hand down.

12 EXAMINATION

13 BY THE COURT:

14 Q. You served as alternate No. 3 in this case; is that right,
15 ma'am?

16 A. Yes.

17 Q. Between November 20, 2017 and January 25, 2018, you served
18 as an alternate juror in the trial of the United States versus
19 Gerald Johnson, case number JKB-16-0363. I was the judge who
20 presided during that trial, perhaps you remember me, or
21 perhaps you don't?

22 A. I do.

23 Q. You do. Okay. Well, so same judge but different
24 courtroom; right?

25 A. Yes, this is very new for me.

1 Q. All right. Now, also here with us today are attorneys who
2 represent the parties in this case. Assistant U.S. Attorney
3 Martinez and Assistant U.S. Attorney Hoffman, representing the
4 government. Mr. Enzinna and Mr. O'Toole, who represent Mr.
5 Johnson. Mr. Bussard, who represents Mr. Jones. Ms. Wicks
6 and Mr. Nieto, who represent Mr. McCants.

7 Do you remember your service as an alternate juror in
8 this case?

9 A. I do.

10 Q. The trial lasted for many weeks. During the trial some
11 concerns were raised, such as defendants passing notes,
12 looking at jurors, and having access to juror information
13 through the juror selection process known as voir dire. The
14 Court addressed these concerns without pausing the trial.

15 Then on January 9, 2018, an event occurred, which caused
16 the trial to briefly pause. One of your fellow jurors, in the
17 presence of at least some of the rest of the jurors and
18 alternates, expressed concern that persons, perhaps a
19 defendant's family members might be taking pictures of the
20 jurors as they passed through the vestibule at the entrance of
21 the courtroom and to the jury room. We understand that juror
22 may have seen this as a significant event. A few minutes
23 later you were interviewed by court staff about that event.

24 A day later, on January 10, 2018, I spoke to the jury in
25 the courtroom and said, one or more jurors had a concern that

1 perhaps someone outside of the jury room, in the courtroom
2 vestibule or courtroom hallway, had photographed or otherwise
3 captured the images of jurors. This matter was investigated
4 after that report was received. The investigation included
5 the examination of a relevant smart phone, camera-type device,
6 in the possession of a relevant individual. That
7 investigation revealed that there were no images, films,
8 videos of the sort that I have referred to captured on that
9 telephone.

10 Today, I have some questions for you about the events of
11 January 9, 2018. Specifically, I need your assistance in
12 learning whether the events of that day impacted your ability
13 to continue to be a fair and impartial juror for the remainder
14 of the trial.

15 **A.** No, it did not.

16 **Q.** Okay. Let me continue on just a little bit here, okay.

17 The lawyers I introduced earlier are not here to ask you
18 questions, only I will do that. Only the Court will do that.
19 But the lawyers are here to represent the interests of their
20 clients and propose follow-up questions that the Court may or
21 may not ask you in its discretion. As you respond to my
22 questions, I want to make sure that you wouldn't speculate
23 about the jury's deliberations. I know you didn't deliberate
24 on guilt or innocence in this case, but I don't want to know
25 about that part of this proceeding. That's not what this is

1 about, okay.

2 Do you remember the event that I've referred to on
3 January the 9th?

4 **A.** I do.

5 **Q.** Did you see anyone engaged in any action that suggested
6 that they were taking pictures of the jurors?

7 **A.** I did not.

8 **Q.** Did you hear any juror make statements indicating his or
9 her belief that persons might be taking pictures of the
10 jurors, and if you do remember that, what do you remember
11 hearing?

12 **A.** I did hear it. And I basically, in so many words he --
13 the exact same words that he thought that people were taking
14 pictures of us outside of the Court barrier.

15 **Q.** Do you remember which juror raised that concern and
16 whether there were more than one juror?

17 **A.** It was just the one. I don't remember his name, but he no
18 longer served, if I can remember correctly.

19 **Q.** Do you remember what he looked like, his gender age his
20 race?

21 **A.** He was male.

22 **Q.** His size?

23 **A.** Male, medium build, maybe African-American, Hispanic
24 descent. I'm not sure.

25 **Q.** Okay. Did anyone, including yourself, suggest that these

1 concerns should be reported to the Court?

2 **A.** No, I do not.

3 **Q.** Did you hear or participate in any discussion among the
4 jurors about the possibility of picture taking?

5 **A.** No, we didn't discuss.

6 **Q.** Okay. So if anything went on, you don't remember it or
7 you don't think there was any discussion?

8 **A.** There wasn't discussion.

9 **Q.** There wasn't any discussion, okay. So in responding to
10 the next questions, I'm going to again ask you to draw a line
11 between events that occurred prior to the start of the jury's
12 deliberations and events that might have occurred after that.
13 Now, I recognize you didn't deliberate in the case, and I'm
14 right about that?

15 **A.** Yes.

16 **Q.** And by deliberations, I mean that point in the trial where
17 no more evidence was presented, the lawyers made their
18 arguments, and I read the jury instructions to you. That's
19 the point jury deliberations began, I don't want to hear
20 anything about that, just matters that came before that. All
21 of your answers to the questions should assume that I'm asking
22 you about before deliberations began.

23 That should be relatively easy for you since you didn't
24 deliberate. But to the extent that you know anything about
25 the deliberations in this case, or what might have happened if

1 you did deliberate in the case, I don't want to hear anything
2 about that. This is just about what went on before that,
3 while you were still serving, but you did serve right up until
4 deliberation began; true.

5 **A.** Yes.

6 **Q.** Okay. After any discussion about possible picture taking
7 on January 9 and 10, did you feel intimidated by anything that
8 had occurred?

9 **A.** No.

10 **Q.** Were you able to remain an impartial juror and were you
11 able to keep an open mind as the trial continued after that?

12 **A.** Yes.

13 **Q.** Do you believe that the events of January 9 and January
14 10, 2018, left you unable to continue to serve as a fair and
15 impartial juror in the case?

16 **A.** No.

17 **Q.** Do you believe that those events left you unable to fully
18 consider the evidence and arguments presented by both sides
19 with an open mind?

20 **A.** Can you repeat that?

21 **Q.** Yeah it's a little bit of a lawyer's question, isn't it?
22 I'm going to try it again. Even though I wrote it, it is a
23 lawyer's question.

24 Did those events on January 9, January 10, do you believe
25 that they left you unable to fully consider the evidence and

1 arguments presented by both sides with an open mind, were you
2 left unable to do that?

3 **A.** No.

4 **Q.** Okay. The next part of this process involves me talking
5 privately with the lawyers over this little electronic device.
6 So in a moment the clerk's going to turn on the sound machine,
7 you remember the noise maker, so you can't hear what's going
8 on. And I'm going to talk quietly to the lawyers so you can't
9 hear. And then once I'm finished with that, I'll speak with
10 you again. Now, this might take a few minutes, so I will ask
11 you to be patient with me, okay?

12 **A.** Yes.

13 **Q.** Thank you, ma'am.

14 (Bench conference on the record.)

15 THE COURT: Mr. Martinez, do you have any follow-up
16 questions?

17 MR. MARTINEZ: No.

18 THE COURT: Mr. Enzinna, do you have any follow-up
19 questions?

20 MR. ENZINNA: Yes, Your Honor. I would request that
21 she be asked a question similar to the one we proposed as
22 additional question 7 for the Juror No. 4 who was excused on
23 January 9th. And that is, specifically, the alternates did
24 not deliberate, they are in a position to provide the Court
25 with extremely relevant information that's not available in

1 any other way, which is -- the question should be asked, at
2 the time that you were excused, before deliberations began,
3 were you able to put this completely out of your mind? Or if
4 you had been asked to deliberate, would you have considered
5 it.

6 THE COURT: Thank you, Mr. Enzinna. That request is
7 denied. Consistent with the rulings that I've made previously
8 when you've posed it in other circumstances, I don't believe
9 that any answers to those questions would be of substantial
10 assistance in the task that rise before me. As I've said
11 several times previously, it's obvious that the events of
12 January 9, January 10 were, quote, in people's minds. They're
13 still able to remember them today. So they were never purged
14 or wiped from their minds. They are there.

15 That's not the relevant question. The question is
16 whether or not it affected a person's continuing ability to
17 serve with fairness, with an open mind, and with impartiality.
18 Accordingly, the questions that I have crafted and that I have
19 felt would be most helpful and that I have asked are directed
20 to that point. Accordingly, your request is denied.

21 Do you have any other questions?

22 MR. ENZINNA: Well, Your Honor, just to make the
23 record complete I would request that she be asked whether at
24 that time, when deliberations were about to begin and she was
25 excused from the jury, whether the photo incident would have

1 affected her deliberations had she deliberated.

2 THE COURT: That's dangerously close to intruding on
3 a part of a juror's work that we are commanded to avoid. I
4 recognize that she did not sit as a juror, so technically it
5 might not be over the line. Nonetheless, it starts to intrude
6 on that deliberative function. And one of the policy
7 objectives of the rule is to not place jurors, and perhaps
8 even alternate jurors, in the position where they are
9 questioned about and try -- and held accountable in some way
10 for how they reacted to the evidence that was presented to
11 them, the verdict that they returned or would have returned if
12 they had been asked to sit.

13 So for that reason, I decline to do so. But mainly
14 I am declining to do so, because she has already actually
15 answered that question to -- in a very thorough and complete
16 way in describing more than once, with direct answers, the
17 fact that she remained impartial, that she remained fair, that
18 she kept an open mind, and the events of January 9, January
19 10, did not affect that.

20 Any other questions?

21 MR. ENZINNA: Your Honor, I don't think she did say
22 it didn't effect her --

23 THE COURT: Mr. Enzinna, I don't want to argue with
24 you, but I am interested in hearing if you have any other
25 questions to propose on other topics?

1 MR. ENZINNA: No, sir. No other questions.

2 THE COURT: Thank you, sir.

3 Mr. Bussard?

4 MR. BUSSARD: No other questions. Thank you.

5 THE COURT: Thank you, Mr. Bussard.

6 Ms. Wicks or Mr. Nieto?

7 MR. NIETO: No, Your Honor.

8 THE COURT: I couldn't hear you, Mr. Nieto.

9 MR. NIETO: Nothing additional, Your Honor.

10 THE COURT: Thank you, Mr. Nieto. We'll go back on
11 the Court record.

12 (The following proceedings were had in open court.)

13 THE COURT: Back on the Court channel. Alternate 3,
14 we are finished with this process. Thank you so much for
15 returning to court and answering the questions that I have put
16 to you. Thank you again for your service as a juror in this
17 case three years ago. Thank you for responding to your
18 summons this time and being responsible about it and coming
19 back down here. Jury service is a burden of citizenship, for
20 sure. And I respect the fact that you have shouldered that
21 burden willingly and been willing to continue to serve and do
22 what is asked of you as a citizen. Thank you so much.

23 Please gather up all of your belongings. Make sure
24 you've got everything. Then the courtroom clerk will see you
25 to the door of the courtroom and get you on your way out of

1 the building out of the courthouse. You are excused, ma'am.

2 THE WITNESS: Thank you.

3 THE COURT: Thank you.

4 (Alternate Juror No. 4 entered the courtroom.)

5 THE CLERK: Raise your right hand for me.

6 ALTERNATE JUROR NO. 4,

7 called as a witness, being first duly sworn, was examined and
8 testified as follows:

9 THE WITNESS: I do.

10 THE CLERK: Thank you.

11 EXAMINATION

12 BY THE COURT:

13 Q. Good afternoon, sir.

14 A. How are you?

15 Q. You are alternate Juror No. 4; is that correct?

16 A. Yes.

17 Q. Between November 20, 2017 and January 25, 2018, you served
18 as an alternate juror in the trial of United States versus
19 Gerald Johnson, et al., case number JKB-16-0363. I was the
20 judge who presided during that trial. Perhaps you remember me
21 or perhaps you don't?

22 A. I do.

23 Q. And same judge, but different courtroom; right?

24 A. Yes.

25 Q. Okay. Also here with us today are attorneys who represent

1 the parties in this case, starting with Assistant U.S.
2 Attorney Martinez and Assistant U.S. Attorney Hoffman, who
3 represent the government. Also here, Mr. Enzinna and Mr.
4 O'Toole, who represent Mr. Johnson. Mr. Bussard, who
5 represents Mr. Jones. And Ms. Wicks and Mr. Nieto, who
6 represent Mr. McCants. Do you remember your service as an
7 alternate juror in that case?

8 **A.** Yes.

9 **Q.** The trial lasted for many weeks. During the trial some
10 concerns were raised such as, defendants passing notes,
11 looking at jurors having access to juror information through
12 the juror selection process known as voir dire. The Court
13 addressed those concerns without pausing the trial.

14 Then on January 9, 2018, an event occurred which caused
15 the trial to briefly pause. One of your fellow jurors, in the
16 presence of at least some of the rest of the jurors and
17 alternates, expressed concern that persons, perhaps a
18 defendant's family members, might be taking pictures of the
19 jurors as they passed through the vestibule at the entrance to
20 the courtroom and the jury room. We understand that juror may
21 have seen that as a significant event. A few minutes later
22 you were interviewed by court staff about the event.

23 A day later, on January 10, 2018, I spoke to the jury in
24 the courtroom and said, one or more jurors had a concern that
25 perhaps someone outside the jury room, in the courtroom

1 vestibule or courtroom hallway had photographed or otherwise
2 captured the images of jurors. This matter was investigated
3 after that report was received. The investigation included
4 the examination of a relevant smart phone, camera-type device
5 in the possession of a relevant individual. That
6 investigation revealed that there were no images, films,
7 videos of the sort that I have referred to captured on that
8 telephone.

9 Today, I have some questions for you about the events of
10 January 9, 2018. Specifically, I need your assistance in
11 learning whether the events of that day impacted your ability
12 to continue to be a fair and impartial juror for the remainder
13 of the trial.

14 The lawyers I introduced a minute ago are not here to ask
15 you questions. Only the Court will do that. Only me. But
16 the lawyers are here to represent the interests of their
17 clients and to propose follow-up questions that the Court may
18 or may not ask in its discretion. As you respond to my
19 questions, please be careful not to tell us anything that you
20 might know about the jury's deliberations on the defendants'
21 guilt or innocence or about how the jury reached their
22 verdict. I recognize you were an alternate juror and you
23 didn't sit during deliberations and you didn't ultimately
24 decide the case, that's all true; right?

25 **A.** Right.

1 Q. Nonetheless, I still want to draw that firm line about
2 what we're talking about here. We're not talking about
3 deliberations. We're not talking about the verdict, that sort
4 of thing, don't want to hear anything about that. Instead, we
5 want to talk about this earlier event. Okay. Do you remember
6 the event on January the 9th?

7 A. Yes.

8 Q. Did you see anyone engaged in any action that suggested
9 that they were taking pictures of the jurors?

10 A. No.

11 Q. Did you hear any juror make statements indicating his or
12 her belief that persons might be taking pictures of jurors,
13 and if you do remember that, what do you remember hearing?

14 A. I heard talk. I didn't hear it from the person that, you
15 know, that left. But I heard talk and that was the reason why
16 he left, but that's about it.

17 Q. Okay. So when you mean left -- when you say left, you
18 mean he left the jury, he wasn't on the jury anymore; is that
19 right?

20 A. Exactly.

21 Q. Okay. And you heard some talk among the jurors that what,
22 that there's some connection between all that?

23 A. Well, that was the reason why he -- he felt that way and
24 that was the reason why, you know, he was taken off the
25 jury.

1 Q. And do you remember when that talk went on?

2 A. No.

3 Q. Okay.

4 A. Maybe after he had left, you know, people were giving
5 reasons why, but that's about it.

6 Q. So do you remember which jurors raised concerns regarding
7 potential picture taking, you've already referred to one
8 person and I think you used the male gender, said it was a
9 him?

10 A. Yeah.

11 Q. What do you remember about him? Do you remember what he
12 looked like, do you remember how old he was, anything like
13 that?

14 A. He was one of the guys on the jury.

15 Q. Yeah. He was one of the guys on the jury, do you remember
16 what he looked like?

17 A. Yeah, dark hair, I guess Indian descent. And actually he
18 was here today.

19 Q. Did you see him here today?

20 A. Yeah.

21 Q. Did you talk with him or just see him?

22 A. No, we weren't supposed to talk to anybody, but I saw
23 him.

24 Q. Okay. You saw him. Same guy though?

25 A. Yeah.

1 Q. How about anybody else talking about picture taking
2 besides him, was there anybody else that you remember?

3 A. No, not that I can recall. No.

4 Q. Okay. Did anybody suggest -- maybe even including
5 yourself, did anybody suggest that these concerns should be
6 reported to the Court?

7 A. I don't know. I didn't -- I really didn't see anybody
8 taking pictures, I mean. I mean, everybody has phones up. I
9 mean, who's to say if they were or weren't taking pictures. I
10 don't know if they were. I didn't pay any attention to it.

11 Q. Okay. So the next question I may have already asked, but
12 I'm going to ask it again any way. Did you hear or
13 participate in discussions among the jurors about the
14 possibility of picture taking, and if so can you remember what
15 was said?

16 A. Yeah, some of -- we talked about it, some of the people on
17 the jury. But we just said they were -- could have been
18 taking pictures. They didn't say anything definite, but that
19 kind of -- that's what was kind of roaming around.

20 Q. Okay.

21 A. Wasn't anything concrete, just -- maybe just talk I
22 guess.

23 Q. In responding to the next questions I'm going to again ask
24 you to draw a line between events that occurred prior to the
25 start of the jury's deliberations and events that happened

1 after the jury began deliberations. By deliberations, I mean
2 that point in the trial when no more evidence was presented,
3 the lawyers had made their arguments, I had read the jury
4 instructions to you. That's the point when deliberations
5 began and I don't want to hear anything about that. Just the
6 matters that came before that. Now, right before
7 deliberations began, you were excused; right?

8 **A.** Correct.

9 **Q.** And you didn't sit and decide the case; true?

10 **A.** Correct.

11 **Q.** So nonetheless, as we go through this, I don't want to
12 hear anything about deliberations, any speculation from you
13 about the verdict that's not what we're talking about here,
14 are you with me on that?

15 **A.** Yeah.

16 **Q.** Okay. After any discussion about possible picture taking
17 on January 9 and January 10, did you feel intimidated by
18 anything that had occurred?

19 **A.** No.

20 **Q.** Were you able to remain an impartial juror and were you
21 able to keep an open mind as the trial continued after that?

22 **A.** Yes.

23 **Q.** Do you believe that the events of January 9 and January 10
24 left you unable to continue to serve as a fair and impartial
25 juror in the case?

1 **A.** No.

2 **Q.** Do you believe that the events of January 9 and January 10
3 left you unable to fully consider the evidence and arguments
4 presented by both sides with an open mind?

5 **A.** No.

6 **Q.** The next part of this process is going to involve me
7 talking to the lawyers privately on this little electronic
8 device. You won't be able to hear it. Instead, we're going
9 to turn on the courtroom noise maker, so you can't hear
10 anything. That's on purpose so we can have a private
11 conversation. You remember this from the trial.

12 **A.** Yes.

13 **Q.** Once I'm finished talking to the lawyers we'll turn that
14 off and then I'll speak to you further. This may take a few
15 minutes, will you be patient with me?

16 **A.** Yeah.

17 **Q.** Thank you, sir.

18 (Bench conference on the record.)

19 THE COURT: Mr. Martinez, do you have any follow-up
20 questions?

21 MR. MARTINEZ: No.

22 THE COURT: Mr. Enzinna, do you?

23 MR. ENZINNA: Yes, Your Honor. And to save time I'd
24 request that -- this is a standing request to all the
25 alternates, that they each be asked whether they were able to

1 put this out of their mind or whether if they had deliberated
2 it would have effected them or they would have considered
3 it.

4 THE COURT: Thank you. That request is denied and I
5 appreciate your requesting it now with respect to all of the
6 alternates. Unless something that hasn't happened yet
7 develops with respect to one of these alternates that causes
8 me to believe that in fact that is an appropriate question, I
9 do not intend to ask it for the reasons previously indicated.
10 Mr. Enzinna has a standing objection to the fact that the
11 Court has declined to propound that question.

12 Do you have any other questions, Mr. Enzinna?

13 MR. ENZINNA: No. Thank you, Your Honor.

14 THE COURT: Mr. Bussard?

15 MR. BUSSARD: No. Thank you.

16 THE COURT: Ms. Wicks or Mr. Nieto.

17 MR. NIETO: No, Your Honor. Thank you.

18 (The following proceedings were had in open court.)

19 THE COURT: Thank you Alternate No. 4. We
20 appreciate your presence here and your participation in this
21 process, just as we appreciated your service as a juror three
22 years ago. Thank you for coming back in response to the most
23 recent summons. We have no further questions for you. I just
24 want you to leave knowing that you have the gratitude of the
25 Court for being a good citizen and responding to your juror

1 notice and to your summons and to coming back here to the
2 courthouse and answering our questions. I am grateful to you.
3 You are excused.

4 Please pick up all of your things so you make sure
5 you don't leave anything behind. The courtroom clerk will
6 then escort you from the courtroom and you are free to leave
7 the courthouse. Thank you, sir.

8 (Alternate Juror No. 5 entered the courtroom.)

9 THE CLERK: You can have a seat and raise your right
10 hand.

11 THE COURT: You can go ahead and sit down. We have
12 different procedures because of COVID. It's hard to follow
13 them. I get mixed up on them. Now pull the microphone down
14 in front of you, so it's nice and close to your face. That's
15 perfect. Now raise your right hand.

16 ALTERNATE JUROR NO. 5,
17 called as a witness, being first duly sworn, was examined and
18 testified as follows:

19 THE WITNESS: I do.

20 THE CLERK: Thank you. You may put your hand
21 down.

22 EXAMINATION

23 BY THE COURT:

24 **Q.** Good afternoon.

25 **A.** Hi.

1 Q. You served as Alternate Juror No. 5 in this case; is that
2 correct?

3 A. That's correct.

4 Q. Between November 20, 2017 and January 25, 2018, you served
5 as a alternate juror in the trial of the trial United States
6 versus Gerald Johnson, case number JKB-16-363, I was the judge
7 who presided during that trial. Perhaps you remember me and
8 perhaps you don't?

9 A. I do.

10 Q. Okay. Same judge, different courtroom. Do you agree with
11 that?

12 A. Correct.

13 Q. Looks like a different courtroom?

14 A. Uh-huh.

15 Q. Okay. Also here with us today are attorneys who represent
16 the parties in the case. Starting with Assistant U.S.
17 Attorney Martinez and Assistant U.S. Attorney Hoffman, who
18 represent the government. Mr. Enzinna and Mr. O'Toole, who
19 represent Mr. Johnson. Mr. Bussard, who represents Mr. Jones.
20 And Ms. Wicks and Mr. Nieto, who represent Mr. McCants. Do
21 you remember your service as a juror in this case?

22 A. Yes, I do.

23 Q. The trial lasted for many weeks. During the trial some
24 concerns were raised, such as defendants passing notes,
25 looking at jurors and having access to juror information

1 through the juror selection process known as voir dire. The
2 Court addressed these concerns without pausing the trial.

3 Then, on January 9, 2018, an event occurred which caused
4 the trial to briefly pause. One of your fellow jurors, in the
5 presence of at least some of the rest of the jurors and
6 alternates, expressed concern that persons, perhaps a
7 defendants' family members, might be taking pictures of the
8 jurors as they passed through the vestibule at the entrance to
9 the courtroom and the jury room. We understand that juror may
10 have seen this as a significant event. A few minutes later,
11 you were interviewed by court staff about that event.

12 A day later, on January 10, 2018, I spoke to the jury in
13 the courtroom and said: One or more jurors had a concern that
14 perhaps someone outside of the jury room, in the courtroom
15 vestibule or courtroom hallway, had photographed or otherwise
16 captured the images of jurors. This matter was investigated
17 after that report was received. The investigation included
18 the examination of a relevant smart phone, camera-type device
19 in the possession of a relevant individual. That
20 investigation revealed that there were no images, films,
21 videos of the sort that I have referred to captured on that
22 telephone.

23 Today I have some questions for you about the events
24 of January 9, 2018. Specifically, I need your assistance in
25 learning whether the events of that day impacted your ability

1 to continue to be a fair and impartial juror for the remainder
2 of the trial.

3 The lawyers I introduced earlier are not here to ask you
4 questions. Only the Court will do that, just me. But the
5 lawyers are here to represent the interests of their clients
6 and to propose follow-up questions that the Court may or may
7 not ask you in its discretion. As you respond to my
8 questions, please be careful not to tell us anything you might
9 know about the jury's deliberations on the defendants' guilt
10 or innocence, or about how the jury reached the verdict.

11 Now I assume that you have nothing to tell us about that
12 because you didn't serve as a juror ultimately. You did not
13 deliberate on guilt or innocence. You were excused just
14 before the jury began to deliberate, am I right about that?

15 **A.** That's correct.

16 **Q.** Nonetheless, it's very important under the law that I make
17 it clear that we're not asking anyone, including you as an
18 alternate juror, about what went on in deliberations, guilt,
19 innocence, verdict, that's not our topic today and I want to
20 make sure you understand we're not talking about that. Are we
21 clear on that?

22 **A.** Yes, sir.

23 **Q.** Do you remember the event that I've referred to on January
24 9?

25 **A.** I don't remember the specific date, but I do recall an

1 event of that nature.

2 **Q.** Did you see anyone engaged in any action that suggested
3 that they were taking pictures of jurors?

4 **A.** No. No.

5 **Q.** Did you hear any juror make statements indicating his or
6 her belief that persons may have been taking pictures of
7 jurors, and if so, what do you remember hearing?

8 **A.** Not necessarily pictures. I just recall that one of our
9 jurors was very concerned about the attention that the
10 gallery, I guess you call it, was paying to us.

11 **Q.** Do you recall which juror that was. You might not know
12 the person's name, but could you say their gender, could you
13 say their age, their race, the --

14 **A.** It was a relatively young African-American girl.

15 **Q.** Relatively young, African-American, girl?

16 **A.** Right.

17 **Q.** Is that fair?

18 **A.** Yes.

19 **Q.** Was there anyone else that you heard stating a concern
20 about this issue?

21 **A.** No.

22 **Q.** Okay. And this concern that was being expressed was not
23 so much about taking pictures, but it was about watching and
24 seeing jurors?

25 **A.** Right.

1 Q. Okay. Do you remember anything about -- being said about
2 potential taking pictures of jurors?

3 A. No, I don't.

4 Q. Okay. Do you remember any other jurors besides this, as
5 you referred to it as this young African-American girl,
6 raising issues in that regard?

7 A. I do recall one day there was a group of people that
8 seemed to be in support of the defendants that were kind of
9 like congregating where we would have to leave the building.
10 And I do recall that we were escorted down the stairway and
11 out like a different exit. But that's -- that's it.

12 Q. Okay. Did you hear or participate in any discussion among
13 jurors about the possibility of picture taking?

14 A. Not picture taking, no.

15 Q. Can you remember what was said around any topic that in
16 any way related to picture taking, anything said at all.

17 A. No.

18 Q. Okay. In responding to the next questions I'm going to
19 again ask you to draw a line between events that occurred
20 prior to the start of deliberations and events that happened
21 after the jury began deliberations. Of course, by
22 deliberations I mean that point in trial when no more evidence
23 was presented, the lawyers made their arguments, I read the
24 jury instructions. That's the point at which deliberations
25 began. I don't want to hear anything about that, just matters

1 that came before that. So all of your answers should be about
2 the time before deliberations began.

3 I assume that would be the case any way, again, because
4 you were an alternate juror and you didn't actually deliberate
5 in the case or participate in the return of a verdict; is that
6 all true.

7 **A.** Correct.

8 **Q.** Okay. After anything that occurred on January 9 and 10,
9 did you feel intimidated by anything that had occurred?

10 **A.** No.

11 **Q.** Were you able to remain an impartial juror and were you
12 able to keep an open mind as the trial continued after January
13 9 and 10?

14 **A.** Yes.

15 **Q.** Do you believe the events of January 9 and 10 left you
16 unable to continue to serve as a fair and impartial juror in
17 the case?

18 **A.** No.

19 **Q.** Do you believe that those events left you unable to fully
20 consider the evidence and arguments presented by both sides
21 with an open mind?

22 **A.** No.

23 **Q.** Now, the next part of this process is going to be a
24 private conversation that I'm going to have with the lawyers
25 over this little electronic device. You won't be able to hear

1 that. In fact, we'll be turning on the little noise machine
2 that you probably remember from the trial, so it will block
3 out anything you won't be able to hear us talking I'll talk
4 with the lawyers a bit then when I'm finished I'll come back
5 and speak with you again. Now this could take a few minutes
6 so I guess I would ask you to be patient with me?

7 **A.** Certainly.

8 (Bench conference on the record.)

9 THE COURT: So, Mr. Martinez, do you have any
10 follow-up questions?

11 MR. MARTINEZ: I have no follow-up questions, Your
12 Honor. But I do reserve the right to be heard if Mr. Enzinna
13 proposes what I think he's about to say, but let's hear what
14 he says.

15 THE COURT: Okay. Mr. Enzinna.

16 MR. ENZINNA: Your Honor, I do have a proposed
17 follow-up question. This juror said that she did not remember
18 this event being about photography, but instead about what she
19 called the attention of the gallery and watching and looking
20 at the jury. I think in order to understand the entire
21 picture of the effect on her, I think it is necessary that she
22 be questioned about the effect of the prior events during the
23 trial, regarding voir dire and the passing of notes.

24 THE COURT: Thank you, Mr. Enzinna. I interpret
25 your question of asking the Court to do something that's

1 outside of the scope of the remand from the 4th Circuit.
2 Certainly, they referenced those earlier events as having been
3 sort of a preamble to what came on the 9th of January. But I
4 have not understood the Court's directive to be to conduct a
5 *Remmer*-type proceedings with respect to any other events that
6 occurred during the trial, including the passing of notes,
7 jurors looking at people, inquiry into juror's backgrounds as
8 part of the voir dire process. As Judge Motz pointed out in
9 her dissent, this seems to have been a narrow remand on the
10 specific point related to picture taking.

11 That said, as you saw from the way I conducted the
12 questioning, even when I did not get an affirmative
13 acknowledgment of anything occurring in relation to picture
14 taking and so forth, and instead when this alternate juror
15 went in a different direction and talked about the comments of
16 the young African-American female, in reference to jurors
17 (sic) watching them and so forth, I nonetheless continued with
18 the juror to ensure that there wasn't anything about the
19 events of January 9, January 10, that might have infected her
20 capacity for fairness, for impartiality, and for open
21 mindedness.

22 I just reframed the question slightly, broadened it
23 out, dropped the reference to picture taking because she
24 wouldn't refer to that, but instead talked generally about
25 those events. And received emphatic denials from the

1 alternate juror on the question of whether or not her capacity
2 for fairness, impartiality, and open mindedness was impacted
3 by the events of January 9 and 10, which are our focus.

4 And, to the extent she broadened that out in her own
5 mind to the observations about the young woman about being
6 observed, the questioning that I followed up with was designed
7 to, and I believe did, capture her reactions, her feelings,
8 her experience as to whether or not her is ability to be fair,
9 open minded, and impartial was compromised. Accordingly, I
10 decline the invitation to inquire further on that topic.

11 Do you have other questions that you propose I ask
12 her?

13 MR. ENZINNA: Well, Your Honor, I just want to be
14 clear that I am not requesting that the Court ask her
15 questions about the events of December 7th and December 18th,
16 the prior jury concerns. I'm asking the Court to ask her
17 about the effect of those concerns on her perception of the
18 events on January 9th, but having said that, I have no further
19 questions.

20 THE COURT: Thank you. Court channel.

21 (The following proceedings were had in open court.)

22 BY THE COURT:

23 Q. A quick follow-up question. Was there anything that
24 happened in terms of these matters, whether it's picture
25 taking, jurors reporting that they were being looked at by

1 spectators at the trial, people that might be associated with
2 the defendants out in the hallway, anything -- did anything
3 about that effect your ability to serve as a fair and
4 impartial juror as the case proceeded to its conclusion?

5 **A.** No.

6 THE COURT: Thank you, ma'am. We'll -- little more
7 patience.

8 THE WITNESS: Okay.

9 (Bench conference on the record.)

10 THE COURT: Mr. Bussard, do you have any questions?

11 MR. BUSSARD: No other questions. Thank you.

12 THE COURT: And Ms. Wicks or Mr. Nieto, do you have
13 any questions?

14 MR. NIETO: No, Your Honor.

15 THE COURT: Thank you. Go back to the Court
16 channel.

17 (The following proceedings were had in open court.)

18 THE COURT: Thank you, Alternate Juror No. 5. We
19 appreciate your returning to court. We are now finished. I
20 have no further questions for you. In a moment we're going to
21 excuse you, but not before I say thank you and express my
22 gratitude for your good citizenship in responding your
23 summons, coming back down here to the courthouse, following
24 the instructions that we provided to you, appearing on time,
25 all of the things that you did to make this possible. I'm

1 very grateful for that. And you may gather up all your
2 things. The courtroom clerk will see you to the door of the
3 courtroom and you are free to leave the courthouse. You are
4 excused, ma'am.

5 THE WITNESS: Thank you.

6 (Alternate Juror No. 6 entered the courtroom.)

7 ALTERNATE JUROR NO. 6,
8 called as a witness, being first duly sworn, was examined and
9 testified as follows:

10 THE WITNESS: I do.

11 THE CLERK: Thank you.

12 EXAMINATION

13 BY THE COURT:

14 Q. Good afternoon. You are Alternate Juror No. 6; is that
15 correct?

16 A. I guess so. I'm not sure what number, but yeah.

17 Q. Well, between November 20, 2017 and January 25, 2018, you
18 served as an alternate juror in the trial of the United States
19 versus Gerald Johnson, case number JKB-16-363. I was the
20 judge who presided during that trial. Perhaps you remember me
21 or perhaps you don't?

22 A. I do. Yes, I remember my nine weeks.

23 Q. Okay. And do you remember me?

24 A. Yup.

25 Q. And do you remember being in a courtroom, but not this

1 one, it was one different from this one?

2 **A.** Yup.

3 **Q.** Okay. Also here with us today are attorneys who represent
4 the parties in this case. Assistant U.S. Attorney Martinez
5 and Assistant U.S. Attorney Hoffman, who represent the
6 government. Mr. Enzinna and Mr. O'Toole, who represent Mr.
7 Johnson. Mr. Bussard, who represents Mr. Jones. Ms. Wicks
8 and Mr. Nieto, who represent Mr. McCants. Ma'am, do you
9 remember your service as a alternate juror in this case?

10 **A.** I do.

11 **Q.** The trial lasted for many weeks. During the trial some
12 concerns were raised such as defendants passing notes, looking
13 at jurors, and having access to juror information through the
14 juror selection process known as voir dire. The Court
15 addressed these concerns without pausing the trial.

16 Then on January 9, 2018, an event occurred which caused
17 the trial to briefly pause. One of your fellow jurors, in the
18 presence of at least some of the rest of the jurors and
19 alternates, expressed concern that persons, perhaps a
20 defendant's family members, might be taking pictures of the
21 jurors as they passed through the vestibule at the entrance to
22 the courtroom and the jury room. We understand that juror may
23 have seen this as a significant event. A few minutes later
24 you were interviewed by court staff about that event.

25 A day later on January 10, 2018, I spoke to the jury in

1 the courtroom and said: One or more jurors had a concern that
2 perhaps someone outside of the jury room, in the courtroom
3 vestibule or courtroom hallway, had photographed or otherwise
4 captured the images of jurors. This matter was investigated
5 that have report was received. The investigation included the
6 examination of a relevant smart phone, camera-type device in
7 the possession of a relevant individual. That investigation
8 revealed that there were no images, films, videos of the sort
9 that I have referred to captured on that telephone.

10 Today, I have some questions for you --

11 **A.** Okay.

12 **Q.** -- About the events of January 9, 2018. Specifically, I
13 need your assistance in learning whether the events that --
14 whether the events of that day impacted your ability to
15 continue to be a fair and impartial juror for the remainder of
16 the trial. The lawyers I introduced earlier are not here to
17 ask you questions, only the Court will do that, just me. But
18 the lawyers are here to represent the interest of their
19 clients and propose follow-up questions that the Court may or
20 may not ask you in its discretion.

21 As you respond to my questions, please be careful not to
22 tell us about the jury's deliberations on the defendants'
23 guilt or innocence, about how the jury reached its verdict and
24 so forth, which presumably you don't know anything about
25 because you were an alternate juror and you didn't sit

1 ultimately and decide the case.

2 First of all, am I right about all of that?

3 **A.** Yes.

4 **Q.** You were excused after I delivered all of those
5 instructions, and you and the alternates left and you did not
6 deliberate on the verdict in the jury room; is that true?

7 **A.** That's correct.

8 **Q.** Do you remember the event on January 9th?

9 **A.** I do.

10 **Q.** Did you see anyone engaged in any action that suggested
11 that they were taking pictures of the jurors?

12 **A.** Not that I recall.

13 **Q.** Okay. Do you want to think about it for a minute. I'm
14 not implying the answer one way or the other, just want to
15 make sure you had enough time.

16 **A.** No, I just remember -- I actually was probably sitting out
17 in the vestibule at the time, that's where I tended to hang.
18 But I mean, I read my book or the paper. But I do
19 specifically know what you're talking about, because the other
20 juror was out there and he sort of freaked out.

21 **Q.** Okay. But returning to my first question, which is
22 whether you saw anything, you saw anyone engaged in any action
23 that suggested they were taking any pictures of the jurors,
24 your answer to that question is?

25 **A.** I really don't remember. Honest, I don't know if I did or

1 if I didn't, or what I'm projecting what Paul -- you know,
2 what the other juror said.

3 Q. Was there -- do you remember any juror making any
4 statements indicating his or her belief that jurors might --
5 that persons might be taking pictures of jurors?

6 A. Yes, that I do.

7 Q. What do you remember hearing?

8 A. I remember him saying they are taking -- they are out
9 there taking pictures of us.

10 Q. Okay. And when you say him, who are you talking about?

11 A. I believe his name was Paul.

12 Q. What did he look like?

13 A. I think he was of Indian descent.

14 Q. Okay. And he was male?

15 A. Yes, he was male, average height, you know, brown skin.
16 Talked with a little accent.

17 Q. And I don't want you to speculate or add anything to it,
18 but I do want know what you remember him saying?

19 A. You know, just what I said that, hey, they're taking
20 pictures of us. And I guess he thought specifically him, I
21 really didn't know. I didn't -- and then I think we all ended
22 up back in the room, but that -- specifically, what I remember
23 him saying is somebody had -- you know, they're taking
24 pictures of us, they have a camera. Don't know who it was.

25 Q. Okay. Do you remember then subsequent discussion that may

1 or may not have occurred among jurors and alternates in the
2 immediate aftermath of his statement?

3 **A.** Oh, geez.

4 **Q.** If you can't remember particulars, just answer me this,
5 was there discussion?

6 **A.** Maybe to the point of, oh, really? And then we all went
7 in, you know, the back room. And then like you said before,
8 things came to a halt. But that's -- I don't -- I didn't -- I
9 don't remember people specifically talking about it, you know,
10 amongst each other, because we didn't really talk. I just
11 know that one particular juror was pretty freaked out.

12 **Q.** Okay. Did anyone, including yourself, suggest that these
13 concerns should be reported to the Court?

14 **A.** I thought they were reported.

15 **Q.** Okay.

16 **A.** But I don't remember somebody saying, oh, we've got to
17 report it. I'm pretty sure that that person probably did.
18 Because we did -- you did talk to us.

19 **Q.** Okay. So last kind of question in this area, I've kind of
20 already asked you this one, I'm going to ask you again so just
21 bear with me. Did you hear or participate in discussion among
22 the jurors about the possibility of picture taking? Can you
23 remember what was said? This is just sort of the final
24 catch-all question if there's something else you're
25 remembering about this picture taking that your memory is kind

1 of popping up with?

2 **A.** I really don't except that for what I've already said
3 about he, you know, look, they're taking pictures of us. And
4 that's it.

5 **Q.** Okay. In responding to the next questions, I'm going to
6 again ask you to draw a line between events that occurred
7 prior to the start of deliberations and events that occurred
8 after the jury began deliberations. I recognize this isn't
9 terribly important or relevant to you, because you were an
10 alternate juror. But the law is very clear on this and that's
11 why I have to explain it with such clarity. So bear with me
12 for a second. It's very important.

13 By deliberations, I mean the point in the trial when no
14 more evidence was presented, the lawyers had made their
15 arguments, and I had read the instructions to you. That's the
16 point when deliberations began. I don't want to hear anything
17 about deliberations, just matters that happened or occurred or
18 came up before that. So in any of your answers to my
19 questions now, you should be limiting them to events that
20 occurred, things that you thought or felt before deliberations
21 began. To reiterate, in your answers to these questions you
22 should not tell us anything about what happened, what was
23 said, what you thought, or what you felt after the jury began
24 to deliberate, just up to that line and then, boom, that it's
25 it.

1 **A.** Got it.

2 **Q.** I've said it four times. So it's probably pretty clear,
3 but it's a very important point. So thank you for bearing
4 with me.

5 Now, here's the next question. After any discussion
6 about possible picture taking on January 9 and 10, did you
7 feel intimidated by anything that had occurred?

8 **A.** No.

9 **Q.** Were you able to remain an impartial juror and were you
10 able to keep an open mind as the trial continued after that?

11 **A.** Yes.

12 **Q.** Do you believe that the events of January 9 and January
13 10, 2018, left you unable to continue to serve as a fair and
14 impartial juror in the case?

15 **A.** No.

16 **Q.** Do you believe that the events of January 9 and January
17 10, left you unable to fully consider the evidence and
18 arguments presented by both sides with an open mind?

19 **A.** Can you say that again? Is that like a trick question?

20 **Q.** That's a mouthful, written by me. And I'm a lawyer and I
21 sometimes don't make my questions as clear --

22 **A.** It was the unable, felt like you were trying to trick
23 me.

24 **Q.** It was a double negative. I'm going to try it again.

25 **A.** Okay.

1 Q. Do you believe the events of January 9 and January 10 left
2 you unable to fully consider the evidence and arguments
3 presented by both sides with an open mind? Did they leave you
4 unable to do that or could you still do that?

5 A. No, I could still do that. So, no?

6 Q. Okay. Are you hesitating because the question is
7 complicate or because you're not sure of the answer?

8 A. No, because the question is complicated. So I'm thinking
9 I'm saying no, because it had no effect on me.

10 Q. All right. Now, the next part of this involves me talking
11 to the lawyers on this private electronic device?

12 A. Okay.

13 Q. You won't be able to hear. Instead we're going to turn on
14 the noise machine.

15 A. Okay.

16 Q. Which you remember from trial?

17 A. I do. Yup.

18 Q. Okay. And so that will be going on for a little while.

19 I'll have a private conversation with them you can't hear.

20 And when we're finished I'll come back and talk you again. It
21 might take a couple of minutes. So I'm going to ask you to be
22 patient with me, okay?

23 A. Yup.

24 (Bench conference on the record.)

25 THE COURT: Mr. Martinez, do you have any follow-up

1 questions?

2 MR. MARTINEZ: Yes, Your Honor, especially in light
3 of this juror's responses to the last three questions or four
4 questions, it was 11, 12 and 13. I want to circle back to the
5 couple of places where she mentioned that, I believe it was
6 Juror No. 4 she was referring to, that he was pretty freaked
7 out. I'm aware of how after the fact that may appear on a
8 cold transcript. But I do think that based on the totality of
9 her responses, as well as her demeanor in saying that Juror
10 No. 4 was pretty freaked out, it was pretty clear that she was
11 characterizing his reaction with an almost bemused -- you
12 know, she was chiding him for overreacting. So I would like
13 the Court to ask a few follow-up questions, to the extent it's
14 relevant, to get her opinion as to the fact that he was
15 overreacting to what he claimed to have seen.

16 THE COURT: All right. How do you propose I do
17 that?

18 MR. MARTINEZ: Well -- your Honor, I'll withdraw
19 it.

20 THE COURT: Thank you. Any other questions
21 Mr. Martinez?

22 MR. MARTINEZ: No, Your Honor.

23 THE COURT: Mr. Enzinna.

24 MR. ENZINNA: Your Honor, I request that she be
25 asked follow-up questions with respect to exactly what she

1 meant when she said the other juror was quote, unquote,
2 freaking out.

3 THE COURT: Okay. Fair enough. I'll do that.

4 (The following proceedings were had in open court.)

5 **BY THE COURT:**

6 **Q.** Alternate Juror No. 6, you used the term "freaking out,"
7 and it would be helpful to the Court if you could further
8 develop that a little bit in terms of what did -- what does
9 that mean in the context of what was going on and what it
10 captured and so forth? When you said that the other juror was
11 freaking out, tell me about that?

12 **A.** Okay. I guess he was very animated, he started talking
13 real fast, you know, uncharacteristically. You know, we got
14 to know each other, you know, fairly well. And maybe anxious.
15 I mean, he was nervous, I think. I mean, I think he really
16 did think that they were taking pictures, even though, you
17 know, you had told us that they did not. So to me, I use the
18 word freaking out, but that's what I meant.

19 **Q.** Don't take this the wrong way, but I'm going to try to use
20 the same vernacular, would you describe your reaction to this
21 as freaking out?

22 **A.** Uh, no.

23 **Q.** How would you describe your reaction to the totality of
24 the event?

25 **A.** I didn't really have a reaction. I mean, it -- I don't

1 get rattled. It is what it is. I trusted what the Marshals
2 and everybody else who were with us all the time were doing.
3 I honestly paid it no real attention.

4 THE COURT: We'll go back now on the private
5 channel.

6 (Bench conference on the record.)

7 THE COURT: Mr. Enzinna, can you hear me?

8 MR. ENZINNA: Yes, I can.

9 THE COURT: Mr. Enzinna, can you hear me?

10 MR. ENZINNA: Yes, I can hear you.

11 THE COURT: Do you have any further questions
12 Mr. Enzinna.

13 MR. ENZINNA: Yes, I would request -- I would
14 request that the Court ask her whether any of the other jurors
15 appeared anxious?

16 THE COURT: Fair enough.

17 (The following proceedings were had in open court.)

18 **BY THE COURT:**

19 **Q.** If you can remember, in relation to this event, can you
20 describe how other jurors reacted to it? And I don't want to
21 put words in your mouth, so I'm going to leave it there, you
22 know, what if anything do you remember about that?

23 **A.** I don't really recall anybody being overly concerned like
24 Paul was, that's -- I don't know whether he felt like it was,
25 you know, directed at him that day, that incident. But I

1 don't think the rest of us who were out there -- it was
2 probably, I don't know, maybe four of us who typically went
3 out there, I don't remember anybody thinking anything about
4 it.

5 THE COURT: Thank you. We'll go back on the private
6 channel.

7 (Bench conference on the record.)

8 THE COURT: Mr. Enzinna, do you have any other
9 questions?

10 MR. ENZINNA: No, Your Honor. No further
11 questions.

12 THE COURT: Mr. Bussard, do you have any questions?

13 MR. BUSSARD: No other questions. Thank you, Your
14 Honor.

15 THE COURT: Mr. Nieto or Ms. Wicks, do you have any
16 questions?

17 MR. NIETO: No, Your Honor.

18 THE COURT: Thank you.

19 (The following proceedings were had in open court.)

20 THE COURT: Alternate Juror No. 6, that's a mouthful
21 in itself, we are finished. I have no further questions for
22 you. In a moment you'll be free to leave. But before we
23 excuse you I want to say thank you to you and express the
24 Court's gratitude for your returning here, once again, to
25 answer these questions today. Jury service is a big burden.

1 It's hard for people to discharge it, particularly during
2 COVID. But you didn't hesitate and you were here and we're
3 very grateful for your good citizenship in coming back and
4 answering our questions. But we are now finished. You can
5 gather up all your belongings. The courtroom clerk will take
6 you to the courtroom door, help you to get out of the
7 building. And you are excused and finished. Thank you,
8 ma'am.

9 THE WITNESS: Thank you.

10 THE COURT: Let's have Mr. Jaco wait outside. In
11 fact, Ms. Cusatis, have Mr. Jaco wait in the holding area.
12 We'll call for him.

13 Okay. Let the record reflect there are no jurors or
14 witnesses in the courtroom and Ms. Smith has returned. The
15 question is, where are we going to go next in this proceeding?
16 We all know that we're going to be convening at 9:30 tomorrow
17 morning to hear from Juror No. 12, who will appear before
18 us -- excuse me, by Zoom from Geneva, Switzerland. And then
19 once we have taken her testimony we will have heard from all
20 of the jurors and the alternate jurors in the case. That then
21 leaves open the question of whether we're going to take the
22 testimony of other witnesses.

23 As I indicated, the Court would take the lead with
24 respect to jurors and alternate jurors under the umbrella of
25 their retaining juror status, at least to some significant

1 extent. That task has been accomplished with the exception of
2 Juror No. 12 and we would resume to the normal -- or to that
3 procedure tomorrow morning.

4 But having completed that, let me turn to the
5 government who -- it's the government that has the burden of
6 proof in this proceeding, to see if they wish to call any
7 witnesses during the additional time that we have left today
8 and to share with us, if they are able, what their thoughts
9 and plans are for the remainder of the hearing, in terms of
10 the witnesses that they may wish to present.

11 Mr. Martinez?

12 MR. MARTINEZ: Yes, Your Honor. I don't think
13 there's anything else we'd like to accomplish today. We have
14 no further witnesses to call today. However, as I've
15 indicated during our last two status conferences, we are
16 hoping to call at least one nonjuror witness on Monday morning
17 the 17th.

18 THE COURT: Remind us again who that is.

19 MR. MARTINEZ: It's Deputy U.S. Marshal Winstone
20 Nisbet. And there's potentially a second witness whose
21 testimony would be relevant to the same issues.

22 THE COURT: Who is that?

23 MR. MARTINEZ: That would be the Court Security
24 Officer Beverly. Although, I think we're likely to call just
25 Deputy Marshal Nisbet at this point.

1 THE COURT: Do you know at this point whether you
2 will call Andrew Jaco, a former law clerk who served in this
3 court during that time period and who took notes during the
4 session that the courtroom deputy clerk convened at the
5 Court's direction, Ms. Powell. And whose notes then -- well,
6 made it into the record in the form of his testimony when the
7 Court was trying to decide whether or not there was a
8 sufficient level of concern to conduct a *Remmer* hearing. Do
9 you have any intention to call Mr. Jaco?

10 MR. MARTINEZ: No.

11 THE COURT: Mr. Enzinna, do you?

12 MR. ENZINNA: No, Your Honor.

13 THE COURT: Mr. Bussard, do you?

14 MR. BUSSARD: No, Your Honor.

15 THE COURT: Ms. Wicks, do you?

16 MS. WICKS: No, Your Honor.

17 THE COURT: So may Mr. Jaco then be excused from his
18 subpoena and told he need not return to court. Counsel?

19 MR. MARTINEZ: Yes.

20 THE COURT: All agree.

21 MR. ENZINNA: Yes, Your Honor.

22 MS. WICKS: Yes, Your Honor.

23 THE COURT: So Ms. Smith, Mr. Jaco should be excused
24 from his subpoena.

25 Second question, the Court placed under subpoena

1 Courtroom Deputy clerk, now Operations Supervisor Camille
2 Powell, who is an employee of this court. Mr. Martinez, do
3 you anticipate calling Ms. Powell as a witness during this
4 hearing?

5 MR. MARTINEZ: No.

6 THE COURT: Mr. Enzinna, do you?

7 MR. ENZINNA: No, Your Honor.

8 THE COURT: Mr. Bussard, do you?

9 MR. BUSSARD: No, Your Honor.

10 THE COURT: Ms. Wicks, do you?

11 MS. WICKS: No, Your Honor.

12 THE COURT: May Ms. Powell be excused from her
13 subpoena and instructed she need not plan to appear during
14 this proceeding. Counsel?

15 MR. ENZINNA: Yes.

16 MR. BUSSARD: Yes.

17 MS. WICKS: Yes.

18 THE COURT: Ms. Powell should be instructed,
19 Ms. Smith, that she's released from her subpoena and does not
20 expect to be called to testify during this proceeding.

21 Other than that I'm not aware of any witnesses CSO
22 Beverly and Deputy Marshal Nisbet, who have been subpoenaed to
23 testify during this trial. Has the government subpoenaed
24 anybody else?

25 MR. MARTINEZ: There has been one more subpoena

1 issued, that's Deputy U.S. Marshal Golob.

2 THE COURT: Oh, Golob, right. What should the
3 status of Deputy Golob be coming out of today's hearing?

4 MR. MARTINEZ: I think it's unlikely, but I'm not
5 prepared to tell the Court that --

6 THE COURT: So Golob, is he subpoenaed for next
7 Monday, the 17th?

8 MR. MARTINEZ: Yes.

9 THE COURT: Okay. So he remains under subpoena and
10 still is required to appear, together with Beverly and Nisbet.

11 Anyone else, Mr. Martinez?

12 MR. MARTINEZ: No, sir.

13 THE COURT: Mr. Enzinna, do you have anyone under
14 subpoena, anyone else that we need to be addressing at this
15 point?

16 MR. ENZINNA: We do not have anyone under subpoena,
17 Your Honor, but I have an investigator who has been standing
18 by, and in order to make sure there would be no taint on the
19 proceeding, I've asked him not to do anything until this
20 questioning of the jurors was over. But we have information
21 that jurors have made comments to other people about their
22 service here. And I'd like to ask him to follow up on that.
23 I'm going to instruct him not to talk to the jurors or their
24 families, but there are other people I'd like him to talk to.
25 And I'd like to have a couple days to do that.

1 THE COURT: Yes, we can hold the record open to the
2 extent that this hearing has not yet been completed. You've
3 already anticipated the Court's central admonition, which is
4 that no lawyer is permitted to have any contact with any
5 juror, any family member or close associate of any juror in
6 this case without the Court's advance permission. And you're
7 aware of that directive, you've just referenced it, correct,
8 Mr. Enzinna?

9 MR. ENZINNA: Yes, although I'm a little unsure what
10 a close associate would mean.

11 THE COURT: Well, probably if you want to be safe,
12 you would propose to the Court the discussion that you hope
13 the investigator could have. But we're very protective of the
14 jurors. All of them have appeared here in open court, been
15 subject to the questions that I have put to them, those
16 questions influenced by the input of counsel. We're trying to
17 strike the right balance here between fully illuminating
18 whatever relevant issues exist and at the same time being
19 protective of jurors, their privacy, and their truly sacred
20 duty and responsibility in the criminal justice process. So
21 it's a very delicate and important balance.

22 I can't give you a better definition of close
23 associate than close associate. If you've got a question, I
24 would suggest you put it to the Court first.

25 MR. ENZINNA: I think what I will do then, Your

1 Honor, is ask my investigator for a list and provide that to
2 the Court.

3 THE COURT: Very good. And if you could, do your
4 best to have him detail what he believes that relationship is
5 with the juror.

6 MR. ENZINNA: And one other matter for Monday.

7 THE COURT: Yes, sir.

8 MR. ENZINNA: I don't know the witnesses the
9 government is planning on calling on Monday. I don't know
10 what it is that they're going to testify to or what it is that
11 they can testify to that would be relevant. I mean, I suppose
12 they can testify about what they saw the jurors do and what
13 they heard the jurors do. But if there's anything beside
14 that, I think we would like to know so we can be prepared.

15 THE COURT: Proffer, Mr. Martinez, as to what the
16 witnesses might be asked about.

17 MR. MARTINEZ: Well, Your Honor, first of all, I
18 want to come back to Mr. Enzinna's witnesses, but to answer
19 his questions squarely, we have filed as exhibits to a status
20 report I believe the Court requested, at some point up to the
21 run up of this proceeding. The Court asked us to identify the
22 witnesses that we intended to call and to produce any reports
23 prepared in connection with the investigation that was done.

24 We filed reports, as well as an e-mail from, I think
25 it was Jack Leo to AUSA Hanlon that went into the involvement

1 of DUSM Nisbet and his colleague Deputy Marshal Golob in the
2 investigation that was done. CSO Beverly prepared a report
3 about what was relayed to him. Those were filed as exhibits.
4 They're on the Court docket. There's no mystery about it.
5 They've been turned over so the question is answered.

6 THE COURT: Let me ask you this: Would you expect
7 that any examination of those witnesses would be within the
8 scope of the reports that they filed in the case or do you
9 have plans to take them other places when they testify? I
10 think that's the most expansive interpretation that I can give
11 to Mr. Enzinna's request.

12 MR. MARTINEZ: No, it's all within the scope of what
13 their -- I mean, it's never the case, Your Honor, that a
14 witness gets on the stand and recites verbatim what is in a
15 written report. There's questioning, never perfectly mirrors
16 a report. But it's 100 percent fair to say those reports
17 capture the scope of every relevant witness's testimony.

18 THE COURT: Okay. Well, and is it fair to say that
19 those are the only statements that the government has in the
20 form of statements or reports that have been written by those
21 individuals in relation to this incident?

22 MR. MARTINEZ: Yes. When the Court asked for the
23 reports, we had AUSA Hanlon who at the time was a supervisor,
24 he's now our crim chief, but he worked with the Marshals
25 Service and the other participants in responding and

1 investigating to this event as best he could find any
2 paperwork that was relevant. And other than e-mails about
3 meet me here or meet me there, anything that had a substantive
4 aspect to it we included, and it wasn't much.

5 THE COURT: I don't have much suspicion of a
6 surprise coming from the government in this regard, given the
7 disclosure of those earlier reports. It seems to me that
8 defense counsel could take those reports as at least general
9 indicators of the scope of the testimony that the witnesses
10 will provide. I'm not entering an order restricting them to
11 that scope. I wouldn't think that there's anything in the
12 Federal Rules that would authorize such an order. But, in
13 general, the point is that there not be a surprise and that we
14 not be going in directions or on to topics that haven't been
15 touched upon in the discovery, or in the this case those
16 reports that have been produced. And from Mr. Martinez'
17 answer, I don't detect any such plans or intentions.

18 Mr. Martinez, did you have anything else?

19 MR. MARTINEZ: I do, Your Honor, because the irony
20 is that we have put those reports into the record and there
21 have been multiple occasions along the road to this proceeding
22 that we predicted Mr. Enzinna would come and say I have people
23 who talked to jurors in the case and we'd like to call them.
24 And he to this day will not identify them. And he says, well,
25 my investigator still needs to go talk to them.

1 And so we object to the manner in which this is
2 being done. There was an April 26 witness disclosure
3 deadline. And, you know, they're complaining that they don't
4 know what our witness who we've identified and disclosed
5 reports for are going to say, and telling us we may have
6 witnesses we want to call, but we're not going to tell you who
7 they are what they're going to testify about. We think that's
8 inappropriate and we object.

9 THE COURT: So I suppose Mr. Enzinna's come back to
10 that is going to be, well, I haven't been able to talk to the
11 jurors, so I don't know exactly where things are going to
12 lead. Of course, the government hasn't been able to talk to
13 the jurors either. Everyone is sort of similarly impaired in
14 that respect.

15 Mr. Enzinna, do you know now of individuals that you
16 may call?

17 MR. ENZINNA: I do not know of any particular
18 individuals that I plan to call at this point.

19 THE COURT: Do you think it's likely that you will
20 call individuals?

21 MR. ENZINNA: I do know of at least one individual
22 who has told other people about communications from one of the
23 jurors.

24 THE COURT: Can you tell us who that is?

25 MR. ENZINNA: I don't know her name.

1 THE COURT: Can you tell us who she is by general
2 descriptors?

3 MR. ENZINNA: I believe she is a -- I want to say a
4 hairdresser or a friend of one of the jurors.

5 THE COURT: Hairdresser for a friend of one of the
6 jurors. Okay. And how do you plan to locate this person?

7 MR. ENZINNA: I -- I plan to have my investigator do
8 that.

9 THE COURT: Do you know what information your
10 investigator will be working from as they attempt to
11 accomplish that?

12 MR. ENZINNA: I do not.

13 THE COURT: All right. Well, let's see how this
14 plays out, Mr. Martinez. The one thing we're not going to
15 permit is for anyone to be ambushed or surprised here.

16 MR. MARTINEZ: So just for the record --

17 THE COURT: Let me finish.

18 MR. MARTINEZ: Sorry.

19 THE COURT: If there is going to be testimony in
20 that regard, I'll weigh the totality of those circumstances
21 and make sure that the government has what, in my view --
22 might not be yours -- but in my view is a sufficient
23 opportunity to fully develop that evidence, even if it
24 requires a postponement, so that the government can help the
25 Court to know the totality of the picture.

1 We're trying to find out the full scope of the
2 impact on the jurors' abilities to be fair and impartial
3 during this trial after the incident of January 9. And to the
4 extent that this somehow sheds light on that, then we will
5 hear it. But we will also give the government a fair and
6 reasonable opportunity to conduct their inquiries and know the
7 scope of this.

8 MR. MARTINEZ: Well, to that effect, Your Honor, we
9 would ask which juror is associated with this hairdresser?
10 How did this information come to light? And those are all
11 thing we are entitled to know.

12 THE COURT: Which juror, Mr. Enzinna?

13 MR. ENZINNA: I don't know at this point.

14 THE COURT: Well, what do you know?

15 MR. ENZINNA: I know that one of the juror -- it was
16 told to me.

17 THE COURT: Who told you?

18 MR. ENZINNA: Mr. Nieto.

19 THE COURT: Okay. Mr. Nieto, perhaps you're more
20 the source of this information, I should inquire of you. What
21 have you got?

22 MR. NIETO: I'm sorry?

23 THE COURT: What have you got? What is coming?

24 MR. NIETO: Your Honor, a family friend of mine is
25 a -- was a coworker slash friends with one of the jurors. And

1 so years ago I had met with her at a birthday party.

2 THE COURT: This is -- who's the her?

3 MR. NIETO: My friend, the friend of the juror.

4 THE COURT: Yes.

5 MR. NIETO: And so my friend had told me that they
6 had this friend that was in a trial and had expressed -- you
7 know, just said a few things about what they had discussed. I
8 hadn't thought much of it, obviously, because I wasn't in the
9 case until this issue popped up.

10 So I had touched base with my friend to find out if
11 she had any independent recollection about the juror and the
12 issue of potential photo taking. And she had some. I did not
13 go into it with much detail, because I did not want to run
14 afoul or potentially run afoul. I can tell the Court with a
15 great deal of confidence, my understanding is they used to be
16 coworkers. They no longer are. And I had made concerted
17 efforts to instruct my friend to not say anything about
18 anything. And she assured me that they hadn't, because they
19 hadn't seen each other since they were no longer working
20 together.

21 So I haven't done any follow-up on that. I
22 anticipate presumably doing that, in the context of what
23 today's hearing was. Unfortunately, I don't know which juror
24 was her coworker slash acquaintance. So that would be part of
25 the analysis before we reach out to my friend again for more

1 details.

2 THE COURT: Okay. Well, you're crystal clear,
3 you've already acknowledged it, that you understand that it
4 would be improper for anyone, you, anyone on your behalf, even
5 though the birthday party friend, so forth, to reach out to
6 the juror in this context. And you've acknowledged that, Mr.
7 Nieto. And let the record reflect, I've worked with Mr. Nieto
8 for years in this courthouse, and he is a paragon of ethical
9 practice in my experience. So I have no doubt you know
10 exactly where that line is and won't cross it.

11 But what do you plan to do now?

12 MR. NIETO: Well, Your Honor, again, I'm going to
13 sort of meet up with everyone and ask -- what I presume is try
14 to discern which juror it was, find out if it was anything
15 inconsistent or any additional information that had -- that is
16 out there that the Court does not have. And then we would
17 presumably call her as a witness to clarify that. I don't
18 know if at this time if she has additional information --

19 THE COURT: Sure.

20 MR. NIETO: So we're still in the -- we've hit a
21 pause on the fact finding mission until the conclusion of
22 today or the testimony.

23 THE COURT: Okay. So I don't have any concerns
24 about this, but I would like to see this come to fruition one
25 way or another, if possible, by next Monday. And sort of sort

1 this out. And then advise the Court whether the defense team
2 in general plans to call a witness. If so, who it is.

3 If you're still uncertain, but you start running up
4 against restrictions that you think are blocking the way in
5 terms of what you're trying to do, that you identify that that
6 to the Court and then make your petition as to here's what we
7 need to do next, and we're mindful of the rule that forbids us
8 from having contact with the jurors without the Court's
9 permission. So, here's what we propose to do. Even if it's
10 not quite the juror, it's getting pretty close to the juror
11 and so forth. And then, you know, make your argument. And
12 we'll give the government to opportunity to respond. And
13 we'll take the additional steps that justice and the evidence
14 indicate that we should.

15 MR. MARTINEZ: Your Honor, I think there's one
16 question the Court's forgetting to ask, and that's who is this
17 witness? Mr. Enzinna told the Court, I don't know who it is.
18 Mr. Nieto is sitting over there knowing who it is, not saying
19 anything. I think that says a lot about the status of
20 reciprocal discovery --

21 THE COURT: Mr. Martinez, find a way to take the
22 edge out of your points like this. We're all in very choppy,
23 difficult waters here. And all of us have a professional
24 responsibility to do our best in difficult circumstances,
25 which this Court is certainly full of, all of us have been

1 thrust into them. But let's keep it -- let's keep the tone
2 civil.

3 That said, Mr. Nieto, I think it's a fair point, are
4 you ready to identify the witness?

5 MR. NIETO: Well, Your Honor, the -- with my limited
6 conversations with my friend, she had expressed no interest in
7 involving herself in this matter.

8 THE COURT: Okay.

9 MR. NIETO: I don't know if I'll call --

10 THE COURT: Okay. So I'll leave it at that. But I
11 do want you, within 48 hours, so by noon on Wednesday, either
12 identify the witness or file a notice with the Court that
13 you're not going there.

14 MR. NIETO: Yes, Your Honor.

15 THE COURT: Okay. Mr. Martinez, there you've got
16 notice. There's either -- you're going to know by Wednesday
17 at noon that they're not going anywhere or you're going to
18 have a name.

19 MR. MARTINEZ: Your Honor, the deadline was April
20 26th. I appreciate what the Court is trying to do, but the
21 fact of the matter is this shows the discovery rules are not a
22 two-way street and we're doing litigation by ambush.

23 THE COURT: Yeah, well, the discovery rules have
24 never been a two-way street. And there are all kinds of
25 rights that are protected in the Bill of Rights and in the

1 United States Constitution. And, unfortunately, very few of
2 them run in favor of your client. They do run in favor of the
3 defendants.

4 So, there we are. We'll have a submission from
5 defense counsel by noon on Wednesday to indicate whether or
6 not there's going to be an additional witness called. Do
7 you -- is this basically it, Mr. Enzinna, or are there
8 potentially other witnesses?

9 MR. ENZINNA: There are potentially others.

10 THE COURT: All right. What can you tell me about
11 them.

12 MR. ENZINNA: I don't know any -- I don't know
13 anything about any of them. I'm looking to find them.

14 THE COURT: All right. So you are speculating that
15 there might be witnesses that you might find in the coming
16 days, but you have no basis right now for believing there are
17 any?

18 MR. ENZINNA: The only basis I have for believing is
19 that this has happened with respect to other people.

20 THE COURT: Okay. So is that speculation on your
21 part because it's human nature and people talk, or is it
22 rooted in some shred of evidence that somebody, you know, was
23 talking about their experiences on this jury?

24 MR. ENZINNA: I have no direct evidence -- I have no
25 evidence that any of the jurors did say anything to anybody

1 else.

2 THE COURT: But that's not going to stop you and
3 your investigator from looking for it in the next few days?

4 MR. ENZINNA: Correct.

5 THE COURT: Okay. Presumably, you were looking for
6 it previously and haven't come up with any yet, and are asking
7 the Court for some additional window of time within which to
8 do that? Or is it your position that, no, we weren't even
9 looking for it because we were fearful of crossing the Court's
10 boundaries?

11 MR. ENZINNA: The latter.

12 THE COURT: Okay. Well, in light of that, search
13 away. And apprise the Court as soon as possible as to whether
14 you have identified other witnesses, but no sooner than next
15 Monday. The 48-hour rule with respect to the Nieto connection
16 still stands. So we need to have an answer on that one, one
17 way or the other. And we'll see where we are on Monday.

18 You know, what's the prejudice with respect to this,
19 Mr. Martinez? I'm holding the record open. There are issues
20 with respect to the Swiss juror. There was the possibility
21 that was going to hold things open. The judgments have been
22 vacated in this case, but no defendant has been released from
23 custody. They're all incarcerated. The Court anticipates a
24 substantial briefing period after this hearing has been
25 completed. Either way, this matter won't be resolved in the

1 district court for many, many weeks. I don't see what the
2 harm is in allowing the sequence to proceed in the manner that
3 it is. I don't see how the government is prejudiced or
4 prejudiced in a way that the Court should take notice of.

5 MR. MARTINEZ: Well, we need notice of who these
6 witnesses are and what they're going to say. We need a
7 proffer of what they're going to say in the same way that
8 they've asked for proffer what is our witnesses are going to
9 say, so we can object to testimony that may be beyond the
10 scope of the order to conduct this hearing, testimony that may
11 implicate Rule 606(b) or similar interests. And so long as we
12 have an adequate period in which to make those objections and
13 make those records and litigate any issues that may arise out
14 of the anticipated testimony, then there is no prejudice.

15 But what's happening now is this is being done in a
16 way that could potentially deprive of us the period we would
17 need to make those objections. That's the intent behind a
18 witness disclosure deadline.

19 THE COURT: Don't borrow trouble. As defense
20 counsel are painfully aware, this Court has opened all kinds
21 of processes to them. And the fact that the Court opens those
22 processes to them doesn't ultimately mean that they prevail on
23 what it is that they want to do, who they want to call, the
24 questions they want to ask and so forth. It's a multi-step
25 process. The first part is making sure that the foundational

1 issues are handled correctly.

2 You know, it's ironic in a case such as this one,
3 where the Court of Appeals concluded that I made mistakes in
4 terms of the foundation that I laid in the initial phases of
5 this particular dispute, it's ironic that we would be
6 considering the question of whether we're going to curtail
7 those things further. We're not going to. It's going to be
8 an open and complete process. And that works in both
9 directions. I'm going to give the defendants the latitude
10 that they've requested here. But I'm also not going to
11 indulge any surprise or ambush or anything along those lines.
12 And the government will be given the time that they reasonably
13 need to react to whatever they're confronted with.

14 That's just how this is going to be conducted. I
15 think if nothing else, this record since this remand has shown
16 that this court's intention is a painstaking, careful,
17 step-by-step review. And that will continue until I
18 ultimately make my determination about whether or not the
19 government has carried their burden in this *Remmer* hearing.

20 Okay. I think we are finished for today and we
21 should plan to reconvene -- let's all try to be here by say
22 9:20 tomorrow morning. Make sure the technology is all up and
23 working and operating. Tomorrow's session involves just the
24 one witness who will be appearing via Zoom. We've got nobody
25 else on the docket. We'll complete that and then we'll take

another recess over until Monday the 17th of May. And then we will continue then with the government's proof, if any.

We will find out that up and know by then whether the defendant's intend to present proof. We'll know because of at least one disclosure that will have come in by noon on Wednesday. And we'll be hearing other things along the way from the defense camp in terms of these potential other witnesses. But the only firm deadline that's imposed, other than the noon on Wednesday deadline, is Monday the 17th. By then, defense counsel's going to have to tell us whether they've got any other witnesses.

The defendants are remanded to the custody of the Marshal. Counsel are excused. Court's in recess. Thank you.

(The proceedings were concluded.)

I, Christine Asif, RPR, FCRR, do hereby certify that the foregoing is a correct transcript from the stenographic record of proceedings in the above-entitled matter.

/s/
Christine T. Asif
Official Court Reporter

INDEX

| | | |
|----|--------------------------------|------|
| 1 | | |
| 2 | Witness Name | Page |
| 3 | Juror No. 4 (01/09/2018) | |
| 4 | Examination By the Court | 11 |
| 5 | Juror No. 1 | |
| 6 | Examination By the Court | 23 |
| 7 | Juror No. 2 | |
| 8 | Examination By the Court | 35 |
| 9 | Juror No. 3 | |
| 10 | Examination By the Court | 53 |
| 11 | Juror No. 4 | |
| 12 | Examination By the Court | 65 |
| 13 | Juror No. 5 | |
| 14 | Examination By the Court | 72 |
| 15 | Juror No. 6 | |
| 16 | Examination By the Court | 84 |
| 17 | Juror No. 7 | |
| 18 | Examination By the Court | 94 |
| 19 | Juror No. 8 | |
| 20 | Examination By the Court | 101 |
| 21 | Juror No. 9 | |
| 22 | Examination By the Court | 108 |
| 23 | Juror No. 10 | |
| 24 | Examination By the Court | 118 |
| 25 | | |

INDEX (cont'd)

| Witness Name | Page |
|--------------------------------|------|
| Juror No. 11 | |
| Examination By the Court | 125 |
| Alternate Juror No. 3 | |
| Examination By the Court | 136 |
| Alternate Juror No. 4 | |
| Examination By the Court | 146 |
| Alternate Juror No. 5 | |
| Examination By the Court | 155 |
| Alternate Juror No. 6 | |
| Examination By the Court | 166 |

| | | |
|----------------------|----------------------|----------------------|
| < Dates > | 113:15, 113:21, | 136:17, 146:17, |
| April 26 188:2. | 121:4, 122:22, | 156:4, 166:17. |
| April 26th 194:19. | 123:3, 123:7, | November 27 12:15. |
| December 18th | 131:18, 132:2, | November 27, 2017 |
| 164:15. | 141:7, 141:13, | 12:11. |
| December 7th | 152:17, 152:23, | November 9 102:10. |
| 164:15. | 153:2, 158:23, | . |
| January 10 3:6, | 161:8, 161:12, | . |
| 57:18, 78:17, | 161:15, 164:3, | < 0 >. |
| 99:9, 113:21, | 173:6, 173:12, | 01/09/2018 200:5. |
| 123:7, 152:17, | 173:16, 174:1, | . |
| 152:23, 153:2, | 190:3. | . |
| 173:16, 174:1. | January 9, 2018 | < 1 >. |
| January 10, 2018 | 12:2, 12:12, 13:7, | 1 4:20, 22:21, 23:7, |
| 25:4, 28:9, 37:8, | 13:14, 14:1, | 23:16, 43:5, |
| 41:13, 55:1, 58:3, | 24:20, 25:16, | 44:15, 200:9. |
| 66:7, 69:15, 74:7, | 36:23, 37:21, | 10 27:24, 41:7, |
| 78:22, 85:25, | 38:9, 54:17, | 57:18, 69:9, |
| 90:21, 95:25, | 55:13, 66:19, | 77:14, 90:13, |
| 98:22, 102:20, | 73:23, 74:19, | 98:16, 106:3, |
| 106:9, 110:4, | 85:16, 86:12, | 113:15, 118:11, |
| 120:5, 123:3, | 95:15, 96:12, | 118:13, 118:22, |
| 127:13, 132:2, | 102:10, 103:7, | 122:22, 131:18, |
| 137:24, 141:13, | 109:20, 110:16, | 141:7, 161:8, |
| 147:23, 157:12, | 119:21, 120:17, | 161:13, 161:15, |
| 167:25, 173:12. | 127:4, 127:25, | 164:3, 173:6, |
| January 25, 2018 | 128:15, 137:15, | 200:45. |
| 23:20, 35:20, | 138:11, 147:14, | 100 8:3, 186:16. |
| 53:23, 64:9, 73:1, | 148:10, 157:3, | 101 1:48, 200:39. |
| 94:16, 101:14, | 157:24, 167:16, | 108 200:43. |
| 108:22, 118:24, | 168:12. | 10th 4:3, 4:13, |
| 126:7, 136:17, | January 9, january | 4:17, 29:16, |
| 146:17, 156:4, | 10 141:24, 143:12, | 47:1. |
| 166:17. | 144:18, 163:19. | 11 29:13, 59:19, |
| January 25th, 2018 | January 9th 29:21, | 79:22, 125:7, |
| 84:20. | 46:19, 97:1, | 125:17, 135:3, |
| January 9 3:5, 14:8, | 103:22, 142:23, | 175:4, 200:7, |
| 18:5, 26:5, 27:24, | 164:18, 169:8. | 201:5. |
| 28:9, 34:6, 41:7, | January 9th, 2018 | 11. 125:6. |
| 41:13, 45:19, | 65:23. | 118 200:47. |
| 46:12, 56:1, | January 9th, january | 12 4:24, 5:8, 9:21, |
| 57:18, 58:1, 58:3, | 47:1. | 11:4, 33:13, |
| 62:19, 67:7, 69:9, | January, 2018 2:11, | 175:4, 179:17, |
| 69:15, 75:7, | 3:21. | 180:2. |
| 77:14, 78:17, | November 20 23:20. | 12. 4:21, 4:24. |
| 78:22, 86:25, | November 20, 2017 | 125 201:7. |
| 90:13, 90:21, | 35:20, 53:23, | 12:45 83:22. |
| 98:16, 98:22, | 64:9, 73:1, 94:16, | 12:45. 83:25, |
| 99:9, 106:3, | 101:14, 108:22, | 84:2. |
| 106:9, 111:8, | 118:24, 126:7, | 13. 59:19, 175:4. |

| | | |
|----------------------|----------------------|--------------------------------|
| 136 201:11. | . | 9th 2:10, 3:1, 3:20, |
| 146 201:15. | < 5 >. | 4:3, 4:13, 4:15, |
| 15 33:13, 33:14. | 5 4:21, 72:13, | 4:16, 139:3, |
| 155 201:19. | 72:14, 72:23, | 149:6, 163:3. |
| 16 33:14. | 76:2, 79:19, 83:1, | _____/s/_____ _____ 199:20. |
| 163 126:6. | 155:8, 155:16, | . |
| 166 201:23. | 156:1, 200:25, | . |
| 17th 180:17, 183:7, | 201:17. | < A >. |
| 199:1, 199:9. | 5. 165:18. | a.m. 5:1. |
| . | 53 200:19. | abilities 190:2. |
| . | . | ability 15:19, 19:3, |
| < 2 >. | . | 25:17, 37:22, |
| 2 4:20, 34:16, 35:7, | < 6 >. | 45:20, 46:5, |
| 35:16, 43:5, 43:9, | 6 76:4, 84:5, 84:6, | 49:13, 52:6, |
| 43:10, 46:18, | 84:8, 84:17, | 55:14, 62:12, |
| 46:22, 46:24, | 166:6, 166:7, | 62:20, 66:20, |
| 52:11, 200:13. | 166:14, 176:6, | 74:20, 86:13, |
| 20 33:15. | 178:20, 200:29, | 92:16, 96:13, |
| 2017 2:10, 23:18, | 201:21. | 103:10, 110:17, |
| 84:20. | 6. 93:16. | 120:18, 128:2, |
| 2018 23:18, 29:17. | 606(b 61:2, 61:8, | 138:12, 143:16, |
| 2018. 2:10. | 197:11. | 148:11, 157:25, |
| 2021 1:18. | 606(b) (1 60:19. | 164:8, 165:3, |
| 20th 84:20. | 65 200:23. | 168:14. |
| 21201 1:49. | 6th 30:21. | above 8:18. |
| 23 200:11. | . | above-entitled |
| . | . | 199:18. |
| . | < 7 >. | absolute 135:22. |
| < 3 >. | 7 18:25, 94:1, 94:3, | Absolutely 5:9, |
| 3 4:20, 43:5, 53:4, | 94:12, 100:14, | 28:8, 35:24, 39:4, |
| 53:11, 53:20, | 142:22, 200:33. | 129:9. |
| 136:2, 136:7, | 72 200:27. | accent 170:16. |
| 136:14, 145:13, | 7A 8:17, 8:23, | acceptable 60:5. |
| 200:17, 201:9. | 20:10, 53:2. | acceptance 3:15. |
| 3. 43:5, 63:19. | . | access 10:6, 13:11, |
| 34 117:10. | . | 20:6, 20:9, 20:13, |
| 35 200:15. | < 8 >. | 24:17, 32:25, |
| 35. 117:10. | 8 100:25, 101:1, | 36:20, 54:14, |
| 38 117:10. | 101:11, 200:37. | 65:20, 73:20, |
| . | 8. 108:1. | 85:13, 95:12, |
| . | 84 200:31. | 102:7, 109:17, |
| < 4 >. | . | 119:18, 127:1, |
| 4. 4:1, 16:7, | . | 137:12, 147:11, |
| 114:24, 154:19. | < 9 >. | 156:25, 167:13. |
| 45 83:22. | 9 108:10, 108:11, | accidentally |
| 48 194:11. | 108:19, 200:41. | 124:20. |
| 48-hour 196:15. | 9. 118:3. | accommodate 8:16. |
| 4th 1:48, 2:6, 7:22, | 94 200:35. | accomplish 180:13, |
| 163:1. | 9:20 198:22. | 189:11. |
| . | 9:30 5:1, 179:16. | |

| | | |
|------------------------|----------------------|---------------------|
| accomplished 180:1. | additions 19:1. | 108:19, 118:20, |
| Accordingly 3:2, | address 6:9, 80:8. | 118:21, 125:15, |
| 3:9, 8:13, 19:8, | addressed 13:13, | 125:16, 125:25, |
| 20:10, 45:13, | 19:9, 24:19, | 136:6, 146:13, |
| 47:20, 82:11, | 36:22, 54:16, | 155:24, 166:14. |
| 92:21, 143:18, | 65:22, 73:22, | afterwards 89:10, |
| 143:20, 164:9. | 79:22, 85:15, | 92:14. |
| accountable 144:9. | 89:14, 89:21, | age 88:1, 117:6, |
| accused 50:25. | 95:14, 102:9, | 139:19, 159:13. |
| acknowledged 192:3, | 109:19, 119:20, | ago 42:2, 76:17, |
| 192:6. | 127:3, 137:14, | 78:1, 88:25, |
| acknowledging | 147:13, 157:2, | 101:12, 129:8, |
| 52:2. | 167:15. | 135:10, 145:17, |
| acknowledgment | addressing 183:14. | 148:14, 154:22, |
| 163:13. | adequate 197:12. | 191:1. |
| acquaintance | administer 65:3. | agree 61:14, 119:6, |
| 191:24. | admissible 60:18, | 156:10, 181:20. |
| across 60:3, | 60:21. | agrees 18:7. |
| 128:21. | admit 44:21. | ahead 18:23, 20:12, |
| act 15:7. | admonition 184:3. | 30:14, 34:8, 35:5, |
| action 26:7, 38:12, | advance 3:13, 6:23, | 48:22, 60:25, |
| 56:4, 67:10, 75:9, | 184:6. | 83:13, 130:5, |
| 87:2, 97:4, | adversely 3:6. | 133:7, 155:11. |
| 103:24, 111:10, | advise 5:19, | aid 61:11. |
| 121:6, 128:18, | 193:1. | al 2:3, 2:5, 12:4, |
| 139:5, 149:8, | advised 52:20, | 12:14, 23:17, |
| 159:2, 169:10, | 83:10. | 23:22, 35:22, |
| 169:22. | affairs 5:21. | 53:25, 64:11, |
| actual 76:19, | affect 62:11, 107:9, | 73:3, 84:22, |
| 89:19. | 144:19. | 94:18, 101:16, |
| actually 4:16, | affected 19:2, | 108:24, 119:1, |
| 10:24, 51:2, | 49:12, 81:24, | 126:9, 146:19. |
| 51:25, 57:20, | 143:16, 144:1. | Alan 1:37. |
| 71:6, 83:13, | affirmative | allow 10:10, |
| 131:20, 144:14, | 163:12. | 52:22. |
| 150:17, 161:4, | affirmatively | allowing 131:21, |
| 169:16. | 92:18. | 197:2. |
| add 87:16, 170:17. | afoul 6:15, | allows 61:8. |
| addition 24:4, 48:6, | 191:14. | almost 49:24, |
| 64:17, 114:24. | afraid 134:12. | 175:11. |
| additional 18:25, | African-american | already 6:1, 23:4, |
| 19:23, 21:9, | 111:25, 115:13, | 29:19, 30:2, 40:8, |
| 34:10, 108:3, | 116:14, 139:23, | 48:6, 48:11, 50:2, |
| 116:6, 134:17, | 159:14, 159:15, | 89:2, 89:6, |
| 134:24, 142:22, | 160:5, 163:16. | 112:10, 144:14, |
| 145:9, 180:7, | after-any 98:15. | 150:7, 151:11, |
| 192:15, 192:18, | aftermath 171:2. | 171:20, 172:2, |
| 193:13, 195:6, | afternoon 84:15, | 184:3, 192:3. |
| 196:7. | 84:16, 94:8, | alternates 4:9, |
| | 101:7, 101:8, | 4:22, 13:17, |

| | | |
|---------------------|----------------------|----------------------|
| 24:23, 37:1, | 171:4, 174:7, | 108:2, 108:5, |
| 54:20, 66:1, 74:1, | 178:25, 185:18, | 118:8, 154:5, |
| 85:19, 95:18, | 187:17, 196:16. | 154:20, 165:19, |
| 102:13, 104:9, | answered 14:20, | 194:20. |
| 109:23, 119:24, | 31:21, 33:23, | appreciated |
| 127:7, 137:18, | 68:16, 80:9, | 154:21. |
| 142:23, 147:17, | 87:15, 92:17, | apprise 196:13. |
| 153:25, 154:6, | 92:19, 92:23, | approach 48:19. |
| 154:7, 157:6, | 92:24, 107:14, | appropriate 2:17, |
| 167:19, 169:5, | 112:10, 144:15, | 7:6, 154:8. |
| 171:1. | 186:5. | appropriately |
| Although 108:25, | answering 108:3, | 6:13. |
| 180:24, 184:9. | 145:15, 155:2, | area 7:17, 7:22, |
| ambiguity 61:19. | 179:4. | 8:1, 8:5, 9:15, |
| ambivalence 45:17, | anticipate 5:24, | 15:3, 75:16, |
| 47:22, 47:25, | 10:22, 135:24, | 171:19, 179:11. |
| 49:19, 51:18, | 182:3, 191:22. | areas 51:1. |
| 92:20. | anticipated 26:18, | argue 80:9, 82:16, |
| ambush 194:22, | 184:3, 197:14. | 144:23. |
| 198:11. | anticipates | argument 61:1, |
| ambushed 189:15. | 196:23. | 193:11. |
| Amendment 30:21. | anxious 176:14, | arise 197:13. |
| AMERICA 1:5. | 177:15. | around 11:14, 34:17, |
| American 88:11, | anybody 39:7, 39:13, | 36:7, 47:23, |
| 88:12. | 97:14, 150:22, | 47:25, 75:17, |
| among 15:14, 26:25, | 151:1, 151:2, | 117:9, 151:19, |
| 40:4, 44:3, 56:20, | 151:4, 151:5, | 160:15. |
| 68:6, 76:14, 89:4, | 151:7, 177:23, | arrangements 4:25, |
| 97:21, 104:21, | 178:3, 182:24, | 5:3. |
| 112:7, 121:25, | 195:25. | arrival 7:20. |
| 130:12, 140:3, | apologies 34:25. | arrived 83:11. |
| 149:21, 151:13, | apologize 18:18, | Asia 39:11. |
| 160:12, 171:1, | 42:11, 70:17. | Asif 1:46, 199:16, |
| 171:21. | appeal 2:23. | 199:21. |
| amongst 171:10. | appealed 2:22. | asks 7:3. |
| amount 50:7, | Appeals 2:6, 2:23, | aspect 187:4. |
| 83:11. | 3:2, 198:3. | aspects 83:14. |
| analysis 81:24, | appear 6:21, 175:7, | assemble 8:19. |
| 191:25. | 179:17, 182:13, | assembly 7:22, |
| Andrew 181:2. | 183:10. | 8:1. |
| angles 49:16. | appearance 88:10. | assess 46:1, |
| animated 176:12. | APPEARANCES 1:21. | 46:10. |
| annoying 16:16, | appeared 107:13, | assessment 46:4. |
| 28:24, 58:16. | 177:15, 184:14. | assist 43:1, 51:22, |
| answer 5:7, 6:17, | appearing 165:24, | 52:8. |
| 7:10, 29:13, 33:9, | 198:24. | assistance 25:16, |
| 49:7, 52:8, 63:21, | applaud 93:19. | 37:21, 55:13, |
| 93:18, 96:17, | appreciate 5:6, | 66:19, 74:19, |
| 107:11, 115:15, | 22:15, 34:11, | 82:5, 86:12, |
| 169:14, 169:24, | 63:20, 72:3, | 96:12, 103:9, |

| | | |
|----------------------|----------------------|----------------------|
| 110:16, 120:17, | 94:24, 101:21, | 62:13. |
| 128:1, 138:11, | 109:5, 119:8, | begs 81:20. |
| 143:10, 148:10, | 126:15, 137:1, | behalf 93:13, |
| 157:24, 168:13. | 146:25, 156:15, | 101:25, 102:1, |
| Assistant 12:23, | 167:3. | 124:16, 192:4. |
| 12:24, 24:6, 36:3, | audience 26:16. | behind 7:17, 8:6, |
| 54:5, 54:6, 64:18, | audio 5:2, 8:21. | 29:22, 83:9, |
| 64:19, 73:11, | AUSA 1:25, 1:27, | 93:23, 155:5, |
| 85:4, 85:5, 94:25, | 185:25, 186:23. | 197:17. |
| 95:1, 101:22, | authorities 5:11, | belief 14:10, 26:11, |
| 101:23, 109:6, | 11:5. | 38:18, 56:8, |
| 109:7, 119:9, | authorize 187:12. | 67:14, 75:13, |
| 119:10, 126:16, | autopilot 21:19. | 87:6, 97:8, 104:3, |
| 126:17, 137:2, | available 142:25. | 111:14, 121:10, |
| 137:3, 147:1, | average 170:15. | 128:25, 129:20, |
| 147:2, 156:16, | average-sized | 139:9, 149:12, |
| 156:17, 167:4, | 117:8. | 159:6, 170:4. |
| 167:5. | avoid 144:3. | believed 26:16, |
| associate 184:5, | aware 175:7, 182:21, | 78:5, 78:7, |
| 184:10, 184:23. | 184:7, 197:20. | 81:11. |
| associated 165:1, | away 31:23, 33:12, | believes 185:4. |
| 190:9. | 45:7, 49:25, | believing 195:16, |
| assume 41:18, 41:19, | 62:17, 196:13. | 195:18. |
| 42:12, 140:21, | . | belongings 22:24, |
| 158:11, 161:3. | . | 118:5, 135:15, |
| assurance 47:25. | < B >. | 145:23, 179:5. |
| assured 20:9, | B. 1:33. | below 33:20. |
| 191:18. | backgrounds 163:7. | belt 7:18. |
| AT&T 10:6, 52:21, | balance 184:17, | bemused 175:11. |
| 52:23. | 184:21. | Bench 9:3, 9:4, 9:5, |
| attempt 189:10. | ball 135:21. | 10:13, 16:24, |
| attempting 61:13. | Baltimore 1:19, | 21:8, 29:9, 42:6, |
| attention 51:12, | 1:49. | 58:23, 62:24, |
| 52:4, 56:3, 62:4, | barrier 33:17, | 70:8, 79:17, |
| 62:5, 62:8, 105:6, | 139:14. | 91:15, 99:24, |
| 151:10, 159:9, | barriers 33:16. | 107:2, 114:17, |
| 162:19, 177:3. | base 191:10. | 116:5, 117:17, |
| Attorney 12:24, | based 45:6, 175:8. | 123:19, 133:1, |
| 24:6, 36:3, 36:4, | basically 27:4, | 134:16, 142:14, |
| 54:6, 64:19, | 130:15, 130:17, | 153:18, 162:8, |
| 73:11, 73:12, | 139:12, 195:7. | 165:9, 174:24, |
| 85:5, 95:1, 95:2, | basis 195:16, | 177:6, 178:7. |
| 101:23, 109:6, | 195:18. | benefit 19:8. |
| 109:7, 119:9, | bear 40:1, 96:18, | beside 116:22, |
| 119:10, 126:17, | 171:21, 172:11. | 185:13. |
| 137:2, 137:3, | bearing 173:3. | besides 151:2, |
| 147:2, 156:17, | became 32:8. | 160:4. |
| 167:4, 167:5. | begin 3:19, | best 15:19, 33:22, |
| attorneys 24:5, | 143:24. | 38:25, 56:10, |
| 54:4, 73:10, 85:3, | beginning 61:4, | 185:4, 187:1, |

| | | |
|----------------------|---------------------|----------------------|
| 193:24. | bridging 2:10. | called 11:19, 12:3, |
| bet 132:19. | brief 2:9, 19:18, | 23:8, 32:22, 35:8, |
| better 5:16, 129:23, | 99:14. | 53:12, 65:5, |
| 184:22. | briefing 80:8, | 72:15, 75:15, |
| Beverly 180:24, | 196:24. | 76:20, 84:9, 94:4, |
| 182:22, 183:10, | Briefly 13:15, | 101:2, 108:12, |
| 186:2. | 15:16, 24:21, | 111:18, 118:14, |
| beyond 16:1, | 36:24, 54:18, | 125:8, 136:8, |
| 197:9. | 65:24, 73:24, | 146:7, 155:17, |
| big 124:14, 135:6, | 85:17, 95:16, | 162:19, 166:8, |
| 178:25. | 102:11, 109:21, | 182:20, 195:6. |
| Bill 194:25. | 119:22, 127:5, | calling 182:3, |
| bird 49:21. | 137:16, 147:15, | 185:9. |
| birthday 191:1, | 157:4, 167:17. | camera 8:20, 8:21, |
| 192:5. | bring 10:4, 11:10, | 25:10, 29:18, |
| bit 4:10, 15:8, | 84:6, 87:13. | 30:8, 39:20, |
| 16:25, 20:25, | bringing 83:14. | 66:13, 81:13, |
| 61:19, 63:13, | broached 92:12. | 128:21, 134:10, |
| 67:22, 70:5, 78:9, | broadened 163:22, | 170:24. |
| 89:9, 91:12, 95:7, | 164:4. | camera-type 37:14, |
| 96:17, 110:21, | brought 3:11, 7:17, | 55:7, 74:14, 86:6, |
| 114:10, 114:13, | 105:6, 112:17. | 96:6, 103:1, |
| 138:16, 141:21, | brown 170:15. | 110:10, 120:11, |
| 162:4, 176:8. | build 139:23. | 127:19, 138:5, |
| blank 123:15. | building 75:17, | 148:4, 157:18, |
| blended 31:20. | 146:1, 160:9, | 168:6. |
| block 162:2. | 179:7. | cameras 131:21, |
| blocking 193:4. | burden 3:4, 108:4, | 132:1. |
| blown 2:19. | 108:6, 124:14, | Camille 105:6, |
| blurred 17:19. | 135:7, 135:9, | 105:7, 182:1. |
| body 31:14, 32:11, | 145:19, 145:21, | camp 199:7. |
| 33:24. | 178:25, 180:5, | candid 92:11. |
| book 169:18. | 198:19. | capacity 3:7, 46:10, |
| boom 172:24. | burdensome 124:14. | 48:1, 163:20, |
| booming 70:16. | . | 164:1. |
| borrow 197:19. | . | capture 164:7, |
| bottom 46:4. | < C >. | 186:17. |
| boundaries 196:10. | C. 1:43. | care 9:18. |
| box 33:3, 33:17, | call 7:15, 10:7, | careful 3:21, 25:25, |
| 87:25, 116:16. | 16:5, 52:22, | 38:6, 55:22, 67:3, |
| boy 40:11. | 77:24, 159:10, | 75:3, 86:21, |
| braids 111:25, | 179:12, 180:6, | 96:23, 103:17, |
| 115:13, 116:15. | 180:14, 180:16, | 111:5, 121:1, |
| branch 6:12. | 180:24, 181:2, | 128:10, 148:19, |
| break 20:11, 83:13, | 181:9, 185:22, | 158:8, 168:21, |
| 83:15, 83:17, | 187:23, 188:6, | 198:16. |
| 83:24, 89:8, | 188:16, 188:18, | carefully 31:15, |
| 89:10, 89:20, | 188:20, 192:17, | 45:8, 51:16. |
| 124:22. | 193:2, 194:9, | carried 198:19. |
| bridge 6:1. | 197:23. | carrying 3:6. |

| | | |
|---------------------|----------------------|----------------------|
| cases 3:15, 50:21. | 199:16, 199:21. | 155:5, 166:2, |
| catch 65:9. | Christopher 1:43. | 179:5, 181:2, |
| catch-all 171:24. | circle 175:4. | 181:4, 182:1. |
| caught 52:4. | Circuit 2:6, | client 195:2. |
| cause 2:18, 92:24. | 163:1. | clients 14:5, 25:22, |
| caused 2:11, 13:14, | circumstance 47:5. | 38:4, 55:19, 67:1, |
| 24:20, 36:24, | circumstances 2:17, | 74:25, 86:18, |
| 52:5, 54:17, | 11:7, 51:11, | 96:21, 103:14, |
| 65:24, 73:23, | 59:25, 60:15, | 111:3, 120:23, |
| 85:16, 95:15, | 143:8, 189:20, | 128:6, 138:20, |
| 102:11, 109:21, | 193:24. | 148:17, 158:5, |
| 119:22, 127:4, | citizen 52:14, | 168:19. |
| 137:15, 147:14, | 63:22, 72:3, 83:2, | close 70:14, 70:15, |
| 157:3, 167:16. | 100:19, 108:6, | 116:17, 133:12, |
| causes 154:7. | 118:7, 145:22, | 144:2, 155:14, |
| central 184:3. | 154:25. | 184:5, 184:10, |
| certain 5:11, 40:1, | citizens 135:11. | 184:22, 184:23, |
| 115:2. | citizenship 93:19, | 193:10. |
| Certainly 16:21, | 100:16, 124:15, | closed 9:16. |
| 34:24, 162:7, | 135:8, 145:19, | Closer 17:4, 18:16, |
| 163:2, 193:25. | 165:22, 179:3. | 46:15, 46:21, |
| certainty 34:5. | civil 194:2. | 59:5, 63:13, 89:9, |
| certify 199:16. | claimed 42:21, 97:2, | 133:9. |
| chair 22:25, 53:6. | 175:15. | cold 175:8. |
| chamber 14:15, | clarified 61:20. | colleague 16:2, |
| 15:11. | clarify 192:17. | 186:1. |
| channel 7:8, 20:3, | clarity 49:10, | colleagues 5:7. |
| 22:12, 29:8, 43:7, | 49:19, 59:13, | collect 83:8. |
| 52:9, 53:2, 62:23, | 61:24, 172:11. | color 88:13. |
| 63:17, 71:24, | clean 53:5. | comes 6:11, 33:17, |
| 82:25, 107:24, | clear 17:7, 17:10, | 89:7, 115:20. |
| 114:16, 116:4, | 17:13, 18:10, | comfort 124:22. |
| 118:1, 133:24, | 30:12, 34:1, | comfortable 15:25. |
| 134:15, 145:13, | 45:22, 61:11, | coming 26:17, 34:11, |
| 164:20, 165:16, | 79:23, 81:15, | 38:22, 38:23, |
| 177:5, 178:6. | 82:14, 158:17, | 70:22, 93:18, |
| characterizing | 158:21, 164:14, | 108:3, 132:1, |
| 175:11. | 172:10, 173:2, | 145:18, 154:22, |
| charge 41:20. | 173:21, 175:10, | 155:1, 165:23, |
| chat 117:16. | 192:2. | 179:3, 183:3, |
| chiding 175:12. | clearly 23:3, | 187:6, 190:23, |
| chief 186:24. | 46:3. | 195:15. |
| child 51:6, 51:7. | CLERK 4:16, 10:4, | commanded 144:3. |
| children 50:23, | 23:6, 34:13, | comment 47:12, |
| 50:24. | 63:24, 72:4, | 48:21, 49:22, |
| chooses 6:3. | 72:11, 83:7, 84:7, | 50:11, 60:10. |
| choppy 193:22. | 100:20, 105:8, | comments 49:4, |
| chosen 6:1. | 108:7, 118:9, | 129:16, 163:15, |
| Christina 1:27. | 124:18, 135:15, | 183:21. |
| Christine 1:46, | 142:6, 145:24, | common 51:3. |

| | | |
|----------------------|----------------------|----------------------|
| communicate 44:3. | 8:12. | 184:4, 193:8. |
| communicated | conference 9:3, 9:4, | context 30:12, |
| 19:19. | 9:5, 10:7, 10:14, | 44:18, 82:10, |
| communication 45:24, | 16:24, 21:8, 29:9, | 176:9, 191:22, |
| 83:4. | 42:6, 52:22, | 192:6. |
| communications | 58:23, 62:24, | continued 4:6, 28:7, |
| 188:22. | 70:8, 79:17, | 28:16, 31:2, 32:7, |
| community 50:21. | 91:15, 99:24, | 34:5, 41:11, |
| complaining 188:3. | 107:2, 114:17, | 57:25, 69:13, |
| complete 92:25, | 116:5, 117:17, | 78:12, 90:19, |
| 143:23, 144:15, | 123:19, 133:1, | 93:3, 98:20, |
| 198:8, 198:25. | 134:16, 142:14, | 106:7, 113:19, |
| completed 4:18, | 153:18, 162:8, | 123:1, 131:24, |
| 83:6, 99:20, | 165:9, 174:24, | 141:11, 152:21, |
| 180:4, 184:2, | 177:6, 178:7. | 161:12, 163:17, |
| 196:25. | conferences | 173:10. |
| completely 6:10, | 180:15. | continuing 45:19, |
| 47:21, 52:1, | confidence 191:15. | 48:1, 60:3, |
| 143:3. | confirm 6:6, 13:6. | 143:16. |
| complexion 39:12, | confirms 4:16. | convened 83:23, |
| 88:13. | confronted 198:13. | 181:4. |
| complicate 174:7. | confusing 4:10. | convenience 20:8. |
| complicated 174:8. | congregating | convening 179:16. |
| compromised 164:9. | 160:9. | conversation 16:13, |
| computer 33:19. | connected 133:18. | 41:23, 42:3, 68:9, |
| concede 50:17. | connection 5:2, | 69:24, 70:1, |
| concerned 10:18, | 130:18, 130:19, | 89:19, 91:7, 91:9, |
| 27:4, 28:4, 32:2, | 149:22, 185:23, | 99:16, 104:19, |
| 47:17, 87:10, | 196:15. | 106:24, 121:14, |
| 87:11, 97:11, | consider 28:11, | 132:21, 153:11, |
| 105:5, 159:9, | 41:15, 49:7, 58:7, | 161:24, 174:19. |
| 177:23. | 69:20, 79:2, 91:1, | conversations 76:19, |
| concerning 87:14. | 99:2, 99:10, | 194:6. |
| concerted 191:16. | 106:14, 114:1, | conveyor 7:18. |
| conclude 11:1. | 123:8, 132:7, | convicted 2:21, |
| concluded 198:3. | 141:18, 141:25, | 50:25, 51:6. |
| concluded. 199:14. | 153:3, 161:20, | convictions 2:22. |
| conclusion 165:4, | 173:17, 174:2. | coordinator 89:13, |
| 192:21. | considered 30:22, | 89:15. |
| concrete 112:15, | 143:4, 154:2. | core 45:18, 51:5. |
| 151:21. | considering 198:6. | corner 95:5. |
| concur 107:13. | Consistent 14:24, | correctly 139:18, |
| conduct 2:7, 2:12, | 143:7. | 198:1. |
| 2:15, 3:3, 3:9, | Constitution | Counsel 2:13, 2:14, |
| 6:10, 50:16, | 195:1. | 2:25, 3:14, 3:15, |
| 163:4, 181:8, | consultation 3:14. | 6:23, 7:1, 7:2, |
| 190:6, 197:10. | consulting 48:15. | 11:2, 18:8, 33:6, |
| conducted 2:20, | cont'd 201:1. | 59:23, 83:10, |
| 163:11, 198:14. | contact 61:7, 80:3, | 181:18, 182:14, |
| conducting 2:24, | 135:19, 135:24, | 184:16, 187:8, |

| | | |
|---------------------|----------------------|---------------------|
| 195:5, 197:20, | 191:24. | decided 27:5. |
| 199:10, 199:13. | coworkers 191:16. | decision 32:21, |
| couple 79:13, | crafted 143:18. | 57:23, 62:14, |
| 123:18, 132:23, | create 11:6. | 62:16. |
| 174:21, 175:5, | crim 186:24. | deck 83:18. |
| 183:25. | crime 51:8. | decline 45:4, |
| course 4:2, 8:22, | crimes 50:25. | 133:22, 144:13, |
| 9:15, 47:14, | CRIMINAL 1:9, 50:21, | 164:10. |
| 47:17, 52:4, | 184:20. | declined 154:11. |
| 116:16, 160:21, | cross 192:10. | declines 31:12. |
| 188:12. | crossed 6:1. | declining 144:14. |
| court. 20:4, 22:14, | crossing 196:9. | DEFENDANT 1:12, |
| 34:9, 52:10, | crystal 45:22, | 1:29, 1:35, 1:39, |
| 61:21, 63:18, | 49:10, 81:15, | 7:3, 9:9, 9:11, |
| 71:25, 82:24, | 135:21, 192:2. | 9:13, 24:24, |
| 93:15, 100:13, | CSO 182:21, 186:2. | 30:11, 48:14, |
| 107:25, 115:5, | cues 31:16, 31:17, | 66:2, 67:5, |
| 116:12, 118:2, | 32:22. | 109:24, 119:25, |
| 124:9, 133:25, | curative 29:16, | 127:8, 137:19, |
| 135:2, 145:12, | 29:21. | 147:18, 167:20, |
| 154:18, 164:21, | curiosity 133:16. | 196:22, 199:4. |
| 165:17, 176:4, | current 135:23. | defense 2:25, 18:8, |
| 177:17, 178:19. | currently 33:3, | 59:23, 67:19, |
| courthouse 7:20, | 51:7. | 187:8, 193:1, |
| 7:21, 7:22, 7:24, | curtail 198:6. | 195:5, 197:19, |
| 8:4, 8:8, 52:25, | Cusatis 179:11. | 199:7, 199:10. |
| 72:5, 83:7, 93:23, | custody 84:1, | defers 6:13. |
| 100:22, 108:8, | 196:23, 199:12. | deficient 81:9. |
| 118:10, 124:18, | cut 130:6. | definite 151:18. |
| 135:16, 146:1, | cylinders 126:5. | definitely 28:4, |
| 155:2, 155:7, | . | 36:17, 42:18. |
| 165:23, 166:3, | . | definition 30:21, |
| 192:8. | < D >. | 184:22. |
| courtroom. 11:11, | dangerously 144:2. | deliberate 138:23, |
| 22:21, 34:16, | Dark 39:12, 88:14, | 140:13, 140:24, |
| 53:4, 64:3, 72:13, | 112:1, 150:17. | 141:1, 142:24, |
| 94:1, 100:25, | darker 117:11. | 143:4, 158:13, |
| 108:10, 118:11, | date 38:10, 128:17, | 158:14, 161:4, |
| 136:2, 146:4, | 158:25. | 169:6, 172:24. |
| 155:8, 166:6. | days 62:18, 183:25, | deliberated 4:8, |
| courtrooms 33:17. | 195:16, 196:3. | 144:1, 154:1. |
| covered 34:19. | deadline 188:3, | deliberating 19:7, |
| COVID 8:12, 10:5, | 194:19, 197:18, | 122:9. |
| 10:11, 20:9, | 199:8, 199:9. | deliberation 57:21, |
| 34:23, 53:5, | deal 50:20, | 122:13, 141:4. |
| 136:4, 155:12, | 191:15. | deliberative |
| 179:2. | decades 50:15. | 144:6. |
| Covid-equipped | decide 19:3, 148:24, | delicate 51:1, |
| 33:17. | 152:9, 169:1, | 184:21. |
| coworker 190:25, | 181:7. | delivered 169:4. |

| | | |
|----------------------|----------------------|--------------------|
| demarcation 61:4. | 15:9, 82:6, 93:1, | directive 163:4, |
| demeanor 31:14, | 198:18. | 184:7. |
| 175:9. | determine 11:3. | Directly 32:24, |
| demonstrate 3:5, | determined 3:13. | 33:9, 48:25, |
| 46:5, 93:2. | develop 47:7, 176:8, | 104:6, 117:1, |
| denials 163:25. | 189:23. | 117:3, 117:4. |
| denied 2:20, 3:16, | develops 154:7. | diring 50:15. |
| 59:23, 59:24, | devices 6:25, 9:2, | discern 49:18, |
| 143:7, 143:20, | 9:4, 91:11. | 192:14. |
| 154:4. | dial 52:22. | discharge 179:1. |
| depart 22:18, 52:17, | dialing 10:9. | disclosed 6:23, |
| 63:25, 72:4, 83:7, | difference 30:19. | 51:15, 188:4. |
| 93:21, 100:21, | different 4:10, | disclosure 187:7, |
| 118:9, 124:18, | 4:11, 10:22, | 188:2, 197:18, |
| 124:21. | 12:19, 24:1, | 199:5. |
| Department 5:20, | 35:25, 73:7, | discovery 187:15, |
| 5:21. | 84:25, 94:21, | 193:20, 194:21, |
| depending 61:15. | 101:19, 109:1, | 194:23. |
| deprive 197:16. | 109:3, 119:4, | discretion 14:6, |
| Deputy 105:8, | 126:13, 136:23, | 25:24, 38:5, |
| 180:19, 180:25, | 146:23, 155:12, | 55:21, 67:2, 75:2, |
| 181:4, 182:1, | 156:10, 156:13, | 86:20, 96:22, |
| 182:22, 183:1, | 160:11, 163:15, | 103:16, 111:4, |
| 183:3, 186:1. | 167:1. | 120:25, 128:8, |
| descent 139:24, | differently 44:6. | 138:21, 148:18, |
| 150:17, 170:13. | difficult 50:22, | 158:7, 168:20. |
| describe 3:22, | 51:1, 91:22, | discuss 112:16, |
| 33:11, 33:22, | 193:23, 193:24. | 140:5. |
| 87:24, 88:1, | difficulty 32:9. | discussed 91:24, |
| 88:12, 111:24, | dig 49:16. | 191:7. |
| 133:20, 176:20, | diplomatic 5:10, | discussing 15:18, |
| 176:23, 177:20. | 11:5. | 40:12. |
| described 20:18, | dire 13:12, 24:18, | discussions 9:2, |
| 80:13, 115:9, | 36:21, 54:15, | 15:22, 45:9, |
| 115:12. | 65:21, 73:21, | 121:12, 134:2, |
| describing 47:6, | 85:14, 95:13, | 151:13. |
| 134:3, 144:16. | 102:8, 109:18, | dismissed 75:23, |
| description 115:3. | 119:19, 127:2, | 97:10. |
| descriptors 189:2. | 137:13, 147:12, | dispute 198:5. |
| designated 4:6. | 157:1, 162:23, | dissent 163:9. |
| designed 82:11, | 163:8, 167:14. | distance 70:16. |
| 164:6. | direct 9:17, 144:16, | DISTRICT 1:1, 1:2, |
| desire 6:9. | 195:24. | 197:1. |
| detail 109:13, | directed 143:19, | docket 186:4, |
| 185:4, 191:13. | 177:25. | 198:25. |
| details 5:12, 15:18, | directing 2:6. | dog 49:21. |
| 45:10, 114:25, | direction 163:15, | doing 23:4, 50:8, |
| 192:1. | 181:5. | 72:3, 130:9, |
| detect 187:17. | directions 187:14, | 134:11, 177:2, |
| determination 7:5, | 198:9. | 191:22, 194:22. |

| | | |
|--|---|--|
| done 41:21, 185:23, 186:2, 188:2, 191:21, 197:15. | 71:13, 74:23, 86:16, 96:19, 100:18, 103:12, 110:23, 120:21, 128:4, 138:17, 149:5, 158:3, 163:2, 168:16, 187:7. | encounter 20:16, 49:18. |
| door 6:21, 7:15, 100:21, 145:25, 166:2, 179:6. | early 23:18, 88:8, 112:2. | end 2:13, 4:2, 7:12, 32:20, 33:5, 33:6, 46:3, 52:7, 135:3. |
| double 173:24. | easy 140:23. | ended 170:21. |
| doubt 28:18, 45:9, 45:14, 67:23, 78:15, 192:9. | edge 193:22. | energy 48:3. |
| down 16:25, 17:5, 47:15, 61:13, 63:23, 91:11, 101:6, 108:16, 125:12, 135:10, 136:11, 145:19, 155:11, 155:13, 155:21, 160:10, 165:23. | effect 13:22, 29:17, 46:7, 47:16, 62:14, 78:1, 80:5, 81:13, 144:22, 162:21, 162:22, 164:17, 165:3, 174:9, 190:8. | engage 49:15. |
| draw 27:8, 40:14, 57:4, 68:19, 76:23, 89:23, 98:1, 105:11, 112:21, 122:7, 130:22, 140:10, 149:1, 151:24, 160:19, 172:6. | effected 154:2. | engaged 26:7, 38:12, 56:4, 67:10, 75:9, 87:2, 97:4, 103:24, 111:10, 121:6, 128:18, 139:5, 149:8, 159:2, 169:10, 169:22. |
| drew 34:4. | effectively 44:20. | enough 133:12, 169:15, 176:3, 177:16. |
| drop 20:2. | effects 92:15. | ensure 163:18. |
| dropped 163:23. | effort 11:6, 49:15. | entered 7:15, 11:11, 22:21, 34:16, 53:4, 64:3, 72:13, 94:1, 100:25, 108:10, 118:11, 136:2, 146:4, 155:8, 166:6. |
| duly 11:19, 23:8, 35:8, 53:12, 65:5, 72:15, 84:9, 94:4, 101:2, 108:12, 118:14, 125:8, 136:8, 146:7, 155:17, 166:8. | efforts 191:17. | entering 15:3, 187:10. |
| DUSM 186:1. | Either 9:4, 76:4, 188:13, 194:11, 194:16, 196:25. | entire 162:20. |
| duties 34:5, 124:15, 135:8. | elaborate 47:4. | entitled 190:11. |
| duty 184:20. | elbow 33:18. | entrance 8:8, 13:20, 24:25, 37:3, 54:22, 66:3, 74:3, 85:21, 95:20, 102:16, 109:25, 120:1, 127:9, 137:20, 147:19, 157:8, 167:21. |
| . | elect 59:25. | environment 90:16. |
| . | elected 8:17. | equipped 33:16. |
| < E >. | electing 47:7. | equivocation 92:20. |
| e-mail 185:24. | electronic 28:22, 41:24, 58:14, 69:25, 79:8, 91:6, 99:15, 106:18, 114:6, 123:12, 132:15, 142:5, 153:7, 161:25, 174:11. | erred 2:24. |
| e-mails 187:2. | elicited 47:8. | escort 8:8, 155:6. |
| ear 71:6, 71:7, 79:22. | emphasis 33:25, 46:8, 48:4, 49:19, 51:16, 51:19, 80:21, 92:19. | escorted 7:14, 8:4, 14:19, 160:10. |
| earlier 14:2, 25:20, 38:1, 55:17, | emphatic 32:8, 163:25. | escorting 14:18, 16:4. |
| | employee 182:2. | |
| | employing 51:19. | |

| | | |
|--|---|--|
| especially 49:2, 51:17, 175:2. | exchange 47:2. | 107:9, 116:9, |
| Esquire 1:31, 1:33, 1:37, 1:41, 1:43. | Excuse 34:8, 102:10, 129:20, 134:6, 165:21, 178:23, 179:18. | 140:24, 164:4, 175:13, 180:1, 184:2, 190:4. |
| essential 5:9, 115:3, 135:11. | execute 5:4. | external 61:3, 61:7, 80:3. |
| et 2:3, 2:4, 12:4, 12:14, 23:17, 23:21, 35:22, 53:25, 64:11, 73:3, 84:22, 94:18, 101:16, 108:24, 119:1, 126:9, 146:19. | executive 6:13. | extremely 142:25. |
| ethical 192:8. | exhibits 185:19, 186:3. | . |
| evaluation 60:15. | exist 184:18. | . |
| everybody 136:4, 151:8, 177:2. | exit 160:11. | < F >. |
| Everyone 7:9, 8:15, 27:4, 27:6, 52:25, 87:12, 188:13, 192:13. | expansive 186:10. | face 11:14, 23:3, 32:24, 32:25, 54:1, 64:12, 73:4, 155:14. |
| everything 34:23, 78:7, 78:9, 112:12, 130:14, 145:24. | expect 32:4, 182:20, 186:6. | facing 15:5, 33:7, 33:8. |
| Evidently 45:23. | expected 41:19. | fact 3:22, 30:8, 32:23, 44:5, 59:16, 81:8, 81:11, 81:12, 144:17, 145:20, 154:8, 154:10, 162:1, 175:7, 175:14, 179:11, 192:21, 194:21, 197:21. |
| evolve 68:9. | expenditure 49:24. | factual 80:4. |
| exact 51:20, 115:22, 115:25, 128:17, 139:13. | experience 19:9, 20:19, 164:8, 192:9. | faded 46:22. |
| Exactly 56:24, 80:9, 104:13, 121:15, 129:3, 149:20, 175:25, 188:11, 192:10. | experienced 34:24, 50:21. | fading 46:20. |
| examined 11:19, 23:8, 29:18, 30:9, 35:8, 53:12, 65:5, 72:15, 81:13, 84:9, 94:4, 101:2, 108:12, 118:14, 125:8, 136:8, 146:7, 155:17, 166:8. | experiences 50:22, 195:23. | failed 43:3. |
| example 30:8. | explain 172:11. | Faintly 17:3. |
| except 9:16, 172:2. | explained 92:10. | fairly 46:6, 51:14, 81:20, 92:22, 93:3, 176:14. |
| exception 180:1. | explaining 30:18. | fairness 3:8, 31:19, 46:11, 47:19, 49:17, 82:10, 143:17, 163:20, 164:2. |
| | explanation 80:16. | faithful 22:16. |
| | explore 47:22. | families 183:24. |
| | express 14:16, 41:19, 165:21, 178:23. | family 13:18, 24:24, 37:2, 38:21, 54:21, 66:2, 67:19, 74:2, 85:20, 95:19, 102:14, 109:24, 119:25, 127:8, 137:19, 147:18, 157:7, 167:20, |
| | expressed 13:17, 15:23, 21:2, 24:23, 27:6, 32:12, 33:24, 34:3, 37:1, 48:3, 48:4, 54:20, 66:1, 74:1, 85:19, 95:18, 102:13, 109:23, 119:24, 127:7, 137:18, 147:17, 157:6, 159:22, 167:19, 191:6, 194:6. | |
| | expressing 26:15. | |
| | expression 31:25. | |
| | extensive 3:14, 45:9. | |
| | extent 32:21, 46:25, 52:3, 62:9, 79:25, | |

| | | |
|----------------------|----------------------|----------------------|
| 184:5, 190:24. | 74:5, 78:1, 85:23, | 198:20. |
| far 30:15, 32:24, | 91:9, 91:13, | firing 126:5. |
| 38:22, 39:3, | 95:22, 99:21, | firm 149:1, 199:8. |
| 46:17, 59:11, | 101:12, 102:18, | Five 125:1, 125:3. |
| 65:10, 92:1, | 106:23, 110:2, | flat 33:20. |
| 135:23. | 114:12, 120:3, | flaws 30:7. |
| farther 15:23, | 127:11, 137:22, | Floor 1:48, 7:22, |
| 16:2. | 142:10, 147:21, | 83:19. |
| fashion 3:18, 6:5, | 153:14, 157:10, | floors 8:17. |
| 63:22. | 162:5, 167:23, | focal 60:9. |
| fast 176:13. | 175:13, 191:7, | focus 164:3. |
| favor 47:7, 195:2. | 195:1, 196:3. | focused 47:20. |
| FCRR 1:46, 199:16. | file 194:12. | folded 33:20. |
| fearful 196:9. | filed 30:16, 185:19, | follow 60:22, 80:15, |
| Federal 1:47, | 185:24, 186:3, | 155:12, 183:22. |
| 187:12. | 186:8. | follow-ups 81:5. |
| fee 166:3. | films 25:12, 37:16, | followed 164:6. |
| feed 8:21. | 55:9, 66:15, | following 20:4, |
| feedback 48:10. | 74:16, 86:8, 96:8, | 22:14, 34:9, |
| feel 27:24, 28:14, | 103:3, 110:12, | 50:13, 52:10, |
| 29:14, 41:7, | 120:13, 127:21, | 61:21, 63:18, |
| 57:19, 69:10, | 138:7, 148:6, | 71:25, 79:25, |
| 77:14, 77:17, | 157:20, 168:8. | 82:24, 93:15, |
| 90:13, 98:16, | final 171:23. | 100:13, 107:25, |
| 99:4, 106:3, | finally 60:7. | 115:5, 116:12, |
| 113:15, 122:22, | find 19:8, 49:1, | 118:2, 124:9, |
| 131:18, 141:7, | 187:1, 190:1, | 133:25, 135:2, |
| 152:17, 161:9, | 191:10, 192:14, | 145:12, 154:18, |
| 173:7. | 193:21, 195:13, | 164:21, 165:17, |
| feeling 39:3, 80:1, | 195:15. | 165:23, 176:4, |
| 80:17, 125:24. | finding 80:4, | 177:17, 178:19. |
| feelings 164:7. | 192:21. | follows 11:20, 23:9, |
| feet 33:12, 33:13, | fine 78:9, 88:4, | 35:9, 53:13, 65:6, |
| 33:14, 33:15, | 110:23, 126:4, | 72:16, 84:10, |
| 45:7. | 132:24. | 94:5, 101:3, |
| fellow 13:23, 14:17, | finish 189:17. | 108:13, 118:15, |
| 20:17, 20:18, | finished 7:13, | 125:9, 136:9, |
| 24:21, 36:24, | 58:19, 63:20, | 146:8, 155:18, |
| 54:18, 65:24, | 72:1, 83:6, 91:11, | 166:9. |
| 73:24, 85:17, | 93:17, 93:24, | forbids 193:7. |
| 95:16, 102:12, | 100:14, 100:22, | foregoing 199:17. |
| 109:21, 119:22, | 106:21, 108:2, | foreign 6:16. |
| 127:5, 137:16, | 114:11, 118:4, | forgetting 193:16. |
| 147:15, 157:4, | 123:16, 124:10, | forgive 129:22. |
| 167:17. | 132:21, 135:4, | forgot 14:17, |
| female 111:25, | 135:17, 142:9, | 16:3. |
| 115:12, 116:14, | 145:14, 153:13, | forgotten 49:3. |
| 163:16. | 162:4, 165:19, | form 61:18, 181:6, |
| few 13:23, 25:2, | 174:20, 178:21, | 186:20. |
| 37:5, 54:24, 66:5, | 179:4, 179:7, | formal 5:14. |

| | | |
|----------------------|----------------------|---------------------|
| former 181:2. | 153:3, 161:19, | 156:6, 166:19. |
| forth 4:21, 31:19, | 173:17, 174:2, | GERALD JOHNSON, et |
| 44:3, 46:3, 48:17, | 184:17, 189:23. | al. 1:10. |
| 48:18, 52:5, | function 46:6, | gets 186:14. |
| 163:14, 163:17, | 80:22, 93:3, | getting 193:10. |
| 168:24, 176:10, | 144:6. | girl 14:19, 159:14, |
| 192:5, 193:11, | functioning 9:16. | 159:15, 160:5. |
| 197:24. | future 135:22. | give 6:4, 107:14, |
| Fortunately 7:23. | . | 115:3, 184:22, |
| forward 27:5, 30:23, | . | 186:10, 190:5, |
| 48:21, 49:1, | < G >. | 193:12, 198:9. |
| 124:15. | gallery 9:15, 9:16, | given 51:19, 80:16, |
| foundation 198:4. | 33:6, 159:10, | 82:8, 82:9, 187:6, |
| foundational | 162:19. | 198:12. |
| 197:25. | gather 100:20, | giving 150:4. |
| four 173:2, 175:3, | 108:7, 118:4, | glitch 53:3. |
| 178:2. | 145:23, 166:1, | Golob 183:1, 183:2, |
| fourth 83:19. | 179:5. | 183:3, 183:6, |
| freaked 169:20, | gathered 14:15. | 186:1. |
| 171:11, 175:6, | gave 29:16, 77:24, | Gosh 39:7, 130:8. |
| 175:10. | 77:25, 92:12. | grateful 83:3, |
| freaking 176:2, | geared 79:23. | 100:19, 135:11, |
| 176:6, 176:11, | geez 171:3. | 155:2, 166:1, |
| 176:18, 176:21. | gender 88:1, 139:19, | 179:3. |
| free 53:1, 108:8, | 150:8, 159:12. | gratitude 63:23, |
| 118:4, 135:4, | general 48:13, | 135:6, 154:24, |
| 155:6, 178:22. | 59:23, 97:22, | 165:22, 178:24. |
| friend 189:4, 189:5, | 129:16, 187:8, | great 81:8, |
| 190:24, 191:3, | 187:13, 189:1, | 191:15. |
| 191:5, 191:6, | 193:2. | greeted 7:21. |
| 191:10, 191:17, | generalized 32:3. | group 160:7. |
| 191:25, 192:5, | generally 71:14, | guaranteed 77:22. |
| 194:6. | 163:24. | guess 16:2, 28:3, |
| friends 190:25. | generated 32:14. | 29:14, 31:24, |
| front 33:15, 47:12, | generates 7:11. | 76:5, 87:11, |
| 116:25, 117:1, | Geneva 5:3, | 89:13, 111:17, |
| 117:3, 117:4, | 179:18. | 112:14, 115:24, |
| 155:14. | gentleman 4:3, 97:2, | 117:9, 117:11, |
| fruition 192:24. | 97:10, 97:14, | 150:17, 151:22, |
| frustrated 126:1. | 105:4. | 159:10, 162:6, |
| fulfill 44:21. | gentlemen 52:20. | 166:16, 170:20, |
| full 2:19, 190:1, | Gerald 1:29, 12:4, | 176:12. |
| 193:25. | 12:14, 23:21, | guiding 6:13. |
| fully 28:11, 41:15, | 35:15, 35:21, | guilt 26:1, 38:7, |
| 58:7, 69:19, 79:1, | 53:24, 64:11, | 55:23, 67:5, 75:4, |
| 90:25, 92:22, | 73:3, 84:18, | 86:22, 96:24, |
| 99:1, 99:10, | 84:22, 94:17, | 103:18, 111:6, |
| 106:13, 113:25, | 101:15, 108:23, | 121:2, 128:12, |
| 123:8, 132:6, | 118:25, 126:9, | 138:24, 148:21, |
| 141:17, 141:25, | 136:19, 146:19, | 158:9, 158:13, |

| | | |
|----------------------|----------------------|---------------------|
| 158:18, 168:23. | head 18:11, 77:23, | 156:17, 167:5. |
| guy 150:24. | 78:8, 81:23, 82:2, | Hold 18:22, 184:1, |
| guys 20:21, 150:14, | 82:3, 82:7, | 196:21. |
| 150:15. | 82:15. | holding 8:5, 39:19, |
| . | head. 81:19. | 179:11, 196:19. |
| . | health 8:14. | homicide 50:23. |
| < H >. | heard 2:23, 32:4, | Honest 169:25. |
| hair 39:12, 112:1, | 48:11, 49:4, | Honestly 104:5, |
| 150:17. | 51:25, 56:9, | 177:3. |
| Hairdresser 189:4, | 57:20, 57:22, | Honorable 1:17. |
| 189:5, 190:9. | 59:7, 59:8, 59:13, | honored 50:14. |
| half 34:23, 129:7. | 60:11, 60:23, | hope 5:8, 184:12. |
| hallway 15:4, 25:7, | 62:1, 62:6, 70:18, | hoping 180:16. |
| 37:11, 55:4, | 71:9, 77:20, 78:8, | horrible 51:8. |
| 66:10, 68:13, | 80:6, 106:21, | horrific 50:22. |
| 74:10, 86:3, 96:3, | 133:20, 149:14, | hours 83:24, |
| 102:23, 110:7, | 149:15, 149:21, | 194:11. |
| 120:8, 127:16, | 159:19, 162:12, | human 195:21. |
| 138:2, 148:1, | 179:19, 185:13. | husher 16:25, |
| 157:15, 165:2, | hearings 50:17. | 41:25. |
| 168:3. | heavy 112:3. | . |
| halt 171:8. | height 33:18, | . |
| hand 11:14, 23:6, | 170:15. | < I >. |
| 35:1, 35:3, 53:10, | held 7:16, 8:1, | ideal 70:17. |
| 65:3, 84:7, 94:2, | 144:9. | identification |
| 101:5, 104:8, | Hello 39:14, | 116:10. |
| 104:19, 108:15, | 94:11. | identified 188:4, |
| 118:12, 125:11, | help 179:6, | 196:14. |
| 136:11, 146:5, | 189:24. | identify 185:21, |
| 155:10, 155:15, | helped 29:21. | 187:24, 193:5, |
| 155:20. | helpful 99:6, | 194:4, 194:12. |
| handled 131:20, | 143:19, 176:7. | identity 87:22. |
| 198:1. | hereby 199:16. | illuminating |
| handling 48:17, | herself 33:25, | 184:17. |
| 48:18, 93:12, | 194:7. | images 25:8, 25:12, |
| 129:23. | hesitate 80:15, | 37:12, 37:16, |
| hang 169:17. | 179:2. | 55:5, 55:9, 66:11, |
| hanging 71:7. | hesitating 174:6. | 66:15, 74:11, |
| Hanlon 185:25, | hide 39:20. | 74:16, 86:4, 86:8, |
| 186:23. | Hispanic 139:23. | 96:4, 96:8, |
| happen 47:14, 58:13, | history 2:9. | 102:24, 103:3, |
| 69:23, 91:4, | hit 192:20. | 110:8, 110:12, |
| 99:13. | hmm 67:18. | 120:9, 120:13, |
| happening 39:18, | Hoffman 1:27, 12:24, | 127:17, 127:21, |
| 48:23, 57:1, | 17:9, 24:7, 33:15, | 138:3, 138:7, |
| 87:11, 88:21, | 36:4, 54:6, 64:19, | 148:2, 148:6, |
| 88:23, 197:15. | 73:12, 85:5, 95:2, | 157:16, 157:20, |
| hard 39:13, 70:15, | 101:23, 109:7, | 168:4, 168:8. |
| 155:12, 179:1. | 119:10, 126:17, | immediate 171:2. |
| harm 197:2. | 137:3, 147:2, | immediately 80:19. |

| | | |
|---|---|---|
| impact 3:6, 45:19, 47:16, 62:20, 90:16, 92:16, 190:2. | 76:20, 77:19, 91:24, 134:4, 135:18, 143:25, 177:25, 186:21, 190:3. | 115:7, 154:9, 179:23, 180:15. |
| impacted 25:17, 37:22, 53:3, 55:14, 66:20, 74:20, 86:13, 96:13, 103:10, 110:17, 120:18, 128:2, 138:12, 148:11, 157:25, 164:2, 168:14. | incidents 49:2, 133:18. | indicating 14:10, 26:10, 38:15, 38:18, 56:7, 67:13, 75:12, 80:15, 87:5, 97:7, 104:2, 111:13, 121:9, 128:25, 139:8, 149:11, 159:5, 170:4. |
| impair 6:15. | include 39:2. | indications 45:17. |
| impaired 188:13. | included 25:9, 37:13, 55:6, 56:25, 66:12, 74:13, 86:5, 96:5, 102:25, 110:9, 120:10, 127:18, 138:4, 148:3, 157:17, 168:5, 187:4. | indicators 187:9. |
| impartiality 3:8, 31:19, 34:6, 46:11, 47:20, 49:17, 82:10, 143:17, 163:20, 164:2. | includes 30:22. | individual 3:24, 25:11, 37:15, 55:8, 66:14, 74:15, 86:7, 96:7, 103:2, 110:11, 120:12, 127:20, 138:6, 148:5, 157:19, 168:7, 188:21. |
| impartially 46:6, 51:14, 93:3. | including 14:21, 26:22, 30:8, 31:16, 34:1, 39:16, 50:14, 56:17, 68:3, 88:15, 88:16, 88:19, 97:16, 104:17, 112:4, 121:19, 121:22, 129:18, 139:25, 151:4, 158:17, 163:6, 171:12. | individually 111:19. |
| implicate 197:11. | inconsistent 192:15. | individuals 186:21, 188:15, 188:18, 188:20. |
| implied 32:10. | incontrovertible 47:10, 47:13. | indulge 198:11. |
| implying 169:14. | incorrect 9:25, 61:2. | infected 163:19. |
| important 34:2, 81:10, 135:7, 135:8, 158:16, 172:9, 172:12, 173:3, 184:21. | independent 191:11. | inference 34:4. |
| imposed 199:8. | INDEX 200:1, 201:1. | influence 30:5. |
| impressions 45:10. | Indian 88:11, 88:12, 112:1, 112:3, 150:17, 170:13. | influenced 30:24, 60:14, 184:16. |
| improper 192:4. | Indian-american 115:10. | influences 61:3. |
| in. 10:4, 11:7, 15:11, 33:23, 39:19, 40:10, 91:10. | indicate 193:14, 195:5. | information 13:11, 24:17, 36:20, 54:14, 61:16, 65:20, 73:20, 77:25, 82:7, 85:13, 95:12, 102:7, 109:17, 119:18, 127:1, 137:12, 142:25, 147:11, 156:25, 167:13, 183:20, 189:9, 190:10, 190:20, 192:15, 192:18. |
| inadmissible 59:16, 61:17. | indicated 18:20, 32:3, 60:11, 80:12, 81:7, | inherent 82:2. |
| inadvertently 93:22. | | initial 198:4. |
| inappropriate 188:8. | | |
| incapable 51:10. | | |
| incarcerated 50:24, 51:7, 196:23. | | |
| inches 70:16. | | |
| incident 38:11, 44:24, 52:3, | | |

| | | |
|---|--|--|
| innocence 26:1, 38:7, 55:24, 67:5, 75:4, 86:22, 96:25, 103:18, 111:6, 121:2, 128:12, 138:24, 148:21, 158:10, 158:13, 158:19, 168:23. | integrate 60:14. intelligent 45:12. intend 5:17, 154:9, 199:4. intended 9:4, 30:12, 185:22. intensity 32:12. intent 197:17. intention 5:8, 181:9, 198:16. intentions 187:17. interaction 45:6, 92:13. interest 168:18, 194:6. interested 144:24. interests 14:4, 25:22, 38:3, 55:19, 67:1, 74:25, 86:18, 96:21, 103:14, 111:2, 120:23, 128:6, 138:19, 148:16, 158:5, 197:11. international 5:21, 6:12. interpret 162:24. interpretation 31:17, 186:10. intersect 7:25. interview 5:14, 50:15, 50:18. interviewed 13:24, 25:3, 37:6, 54:25, 66:6, 74:6, 85:24, 95:23, 102:18, 110:3, 120:4, 127:12, 137:23, 147:22, 157:11, 167:24. interviewing 51:20. intimidated 27:24, 28:1, 28:3, 29:14, 29:15, 31:24, 41:7, 44:16, 57:19, 69:10, 77:14, 77:17, 79:23, 90:13, | 98:16, 106:3, 107:12, 113:15, 122:22, 131:18, 134:12, 141:7, 152:17, 161:9, 173:7. intimidating 77:21, 80:14. intimidation 31:22, 79:22, 80:1. introduced 14:2, 25:20, 38:1, 55:17, 66:23, 74:23, 86:16, 96:18, 103:12, 110:23, 120:21, 128:4, 138:17, 148:14, 158:3, 168:16. intrude 144:5. intruding 144:2. investigated 25:8, 29:17, 37:12, 55:5, 66:11, 74:12, 86:4, 96:4, 102:24, 110:8, 120:9, 127:17, 138:3, 148:2, 157:16, 168:4. investigating 187:1. investigator 183:17, 184:13, 185:1, 187:25, 189:7, 189:10, 196:3. investment 50:6. invitation 164:10. involve 153:6. involved 15:16. involvement 185:25. involves 132:14, 142:4, 174:10, 198:23. involving 10:21, 48:24, 194:7. ironic 198:2, 198:5. irony 187:19. irrelevant 61:17. |
| input 3:14, 184:16. inquire 31:12, 164:10, 190:20. inquiries 2:12, 2:13, 2:16, 4:2, 190:6. inquiring 49:20, 50:12. inquiry 5:10, 47:21, 51:1, 163:7. inquisitive 126:2. insignificant 49:23, 50:7. instance 20:20, 82:9. instances 3:16. Instead 28:23, 41:25, 58:15, 70:1, 79:10, 83:18, 99:16, 106:19, 149:4, 153:8, 162:18, 163:14, 163:24, 174:13. instruct 183:23, 191:17. instructed 32:23, 182:13, 182:18. instruction 77:24. instructions 3:3, 8:2, 23:5, 27:13, 40:19, 57:8, 68:24, 77:3, 90:3, 98:6, 105:16, 112:25, 122:12, 131:3, 140:18, 152:4, 160:24, 165:24, 169:5, 172:15. insulin 125:20. | | |

| | | |
|--|--|--|
| issue 6:2, 6:5, 6:7, 6:9, 10:25, 11:9, 19:5, 28:2, 45:18, 45:22, 47:25, 49:11, 49:12, 52:21, 52:24, 60:1, 60:4, 60:8, 61:10, 81:16, 82:12, 92:22, 159:20, 191:9, 191:12. | join 19:25, 46:17, 47:2. joined 2:14. Jones 1:35, 9:10, 9:11, 13:2, 24:9, 36:8, 54:8, 64:21, 73:14, 85:7, 95:4, 102:1, 109:10, 119:12, 126:20, 137:5, 147:5, 156:19, 167:7. | 102:8, 109:18, 119:19, 127:2, 137:13, 147:12, 157:1, 167:14. . . < L >. lack 49:19, 129:23. Ladies 52:20. laid 198:4. language 31:14, 31:18, 32:11, 45:12, 45:13. languages 21:2. large 117:7. Last 9:6, 49:22, 50:11, 135:18, 135:19, 171:19, 175:3, 180:15. |
| issued 183:1. issues 160:6, 180:21, 184:18, 196:19, 197:13, 198:1. itself 2:18, 92:14, 178:21. . . < J >. Jack 185:25. Jaco 179:10, 179:11, 181:2, 181:9, 181:17, 181:23. James K. Bredar 1:17. January 3:1, 4:3, 4:14, 29:16, 139:3, 149:6, 163:3. Jeffrey 1:33. Jenifer 1:41. JKB-16-0363 1:9. JKB-16-0363 35:16, 35:22, 53:25, 64:11, 73:3, 84:22, 94:18, 101:16, 108:24, 119:1, 126:9, 136:19, 146:19. JKB-16-30363 23:22. JKB-16-363 2:5, 12:5, 12:14, 23:17, 53:21, 64:7, 72:24, 84:18, 94:13, 156:6, 166:19. jog 20:24. | judges 50:14. judgments 196:21. judicial 6:14. juries 7:23. Justice 5:21, 184:20, 193:13. . . < K >. Keep 7:10, 11:25, 23:3, 28:6, 41:11, 57:25, 69:13, 78:12, 90:19, 98:20, 106:7, 113:19, 123:1, 131:24, 141:11, 152:21, 161:12, 173:10, 194:1. keeping 132:9, 132:12. Kenneth 1:35. kept 144:18. Kind 14:20, 40:10, 77:20, 77:21, 78:8, 87:11, 87:15, 90:15, 92:2, 112:3, 112:10, 129:16, 130:8, 134:2, 151:19, 160:8, 171:19, 171:25. kinds 51:11, 194:24, 197:20. knowing 154:24, 193:18. known 13:12, 24:18, 36:21, 54:15, 65:21, 73:21, 85:14, 95:13, | . . . lack 49:19, 129:23. Ladies 52:20. laid 198:4. language 31:14, 31:18, 32:11, 45:12, 45:13. languages 21:2. large 117:7. Last 9:6, 49:22, 50:11, 135:18, 135:19, 171:19, 175:3, 180:15. lasted 13:9, 24:15, 36:18, 54:12, 65:18, 73:18, 85:11, 95:10, 102:5, 109:15, 119:16, 126:24, 137:10, 147:9, 156:23, 167:11. late 2:10, 23:17. latitude 198:9. latter 196:11. law 2:7, 10:21, 158:16, 172:10, 181:2. lawfully 6:11. lawyer 48:14, 48:16, 141:21, 141:23, 173:20, 184:4. lead 179:23, 188:12. leading 44:20. leads 133:23. learned 32:15, 51:4, 78:5. learning 25:17, 37:22, 55:14, 66:20, 74:20, 86:13, 96:13, 103:9, 110:17, 120:18, 128:1, |

| | | |
|---------------------|---------------------|----------------------|
| 138:12, 148:11, | 20:7, 20:13, 21:7, | 167:12, 195:13, |
| 157:25, 168:13. | 27:8, 40:14, 46:4, | 196:3, 196:5, |
| least 13:16, 24:22, | 52:21, 57:4, | 196:9. |
| 36:25, 54:19, | 68:19, 76:23, | Looks 71:7, |
| 61:18, 65:25, | 89:23, 98:1, | 156:13. |
| 73:25, 85:18, | 105:11, 112:21, | loose 62:10. |
| 95:17, 102:12, | 122:7, 130:22, | lost 42:24. |
| 109:22, 119:23, | 140:10, 144:5, | lot 34:18, 193:19. |
| 127:6, 137:17, | 149:1, 151:24, | Lots 82:7. |
| 147:16, 157:5, | 160:19, 172:6, | Loud 17:7, 17:9, |
| 167:18, 179:25, | 172:24, 192:10. | 17:12, 18:10. |
| 180:16, 187:8, | lines 67:18, | lunch 83:10, 83:12, |
| 188:21, 199:5. | 198:11. | 83:13, 83:14, |
| leave 4:17, 8:7, | lingering 92:15. | 83:17, 83:21, |
| 10:16, 63:23, | list 81:4, 185:1. | 83:24. |
| 72:5, 72:7, 83:9, | listen 8:11, 10:7, | . |
| 93:17, 93:22, | 10:8, 51:16, | . |
| 93:23, 99:4, 99:9, | 51:18, 52:23, | < M >. |
| 100:21, 108:8, | 53:1. | Ma'am 11:21, 22:22, |
| 118:4, 118:5, | listened 31:14, | 23:2, 34:14, |
| 118:10, 124:20, | 45:8, 45:16. | 34:17, 52:19, |
| 135:4, 135:5, | litigate 197:13. | 63:16, 71:23, |
| 135:16, 154:24, | litigation 194:22. | 72:21, 83:9, |
| 155:5, 155:6, | live 8:21. | 84:15, 93:24, |
| 160:9, 166:3, | local 52:24. | 94:8, 100:24, |
| 174:3, 177:21, | locate 189:6. | 108:9, 136:3, |
| 178:22, 194:10. | Lombard 1:48. | 136:15, 142:13, |
| leaves 179:21. | long 5:25, 83:23, | 146:1, 165:6, |
| legal 61:10. | 197:11. | 166:4, 167:8, |
| legally 61:1. | longer 4:4, 139:18, | 179:8. |
| lengthy 107:10. | 191:16, 191:19. | machine 16:15, |
| Leo 185:25. | look 11:25, 36:7, | 28:24, 42:1, |
| less 5:14. | 39:10, 45:7, | 58:16, 70:2, |
| level 33:20, | 170:12, 172:3. | 79:11, 114:6, |
| 181:8. | looked 33:9, 33:10, | 123:14, 132:16, |
| life 34:24. | 40:10, 43:23, | 142:6, 162:1, |
| light 16:14, 29:12, | 44:2, 44:8, 78:4, | 174:14. |
| 35:1, 51:14, | 78:5, 139:19, | mainly 144:13. |
| 175:2, 190:4, | 150:12, 150:16, | maker 42:1, 70:2, |
| 190:10, 196:12. | 164:25. | 91:7, 99:17, |
| likely 180:24, | looking 13:11, | 106:20, 123:14, |
| 188:19. | 24:17, 36:20, | 142:7, 153:9. |
| limited 27:16, | 39:1, 54:14, | Male 88:3, 115:10, |
| 40:24, 57:13, | 64:23, 65:20, | 139:21, 139:23, |
| 69:3, 77:7, 90:7, | 73:20, 85:13, | 150:8, 170:14, |
| 98:10, 105:21, | 95:12, 102:7, | 170:15. |
| 113:5, 122:16, | 109:17, 119:18, | manner 10:10, 31:13, |
| 131:8, 194:5. | 126:25, 137:12, | 188:1, 197:2. |
| limiting 172:19. | 147:11, 156:25, | Marquise 1:39. |
| line 10:6, 10:12, | 162:19, 163:7, | Marshal 84:2, |

| | | |
|----------------------|----------------------|----------------------|
| 180:19, 180:25, | 127:8, 137:19, | mission 192:21. |
| 182:22, 183:1, | 147:18, 157:7, | misspoke 44:8. |
| 186:1, 199:13. | 167:20. | mistakes 198:3. |
| Marshals 39:21, | memories 89:3, | mixed 67:19, |
| 177:1, 186:24. | 104:25. | 155:13. |
| Maryland 1:2, 1:19, | memory 20:24, 43:19, | modifications |
| 1:49. | 105:2, 115:14, | 19:1. |
| mask 54:1, 64:13, | 115:20, 134:5, | moment 3:19, 10:23, |
| 73:5. | 171:25. | 16:12, 20:14, |
| masks 39:13. | mental 32:15. | 60:24, 61:23, |
| matter. 20:23. | mention 16:3, | 124:24, 142:6, |
| matters 9:18, 27:15, | 89:12. | 165:20, 178:22. |
| 40:23, 57:10, | mentioned 38:21, | moments 33:25. |
| 69:1, 77:4, 90:5, | 56:2, 68:8, | Monday 180:16, |
| 98:8, 105:18, | 114:22, 134:10, | 183:7, 185:6, |
| 113:4, 122:14, | 175:5. | 185:9, 192:25, |
| 131:5, 140:20, | message 31:25. | 196:15, 196:17, |
| 152:6, 160:25, | met 191:1. | 199:1, 199:9. |
| 164:24, 172:17. | Microphone 18:16, | Monday 1:18. |
| May 10th 1:18. | 23:4, 33:11, | monitor 33:19. |
| Mccants 1:39, 9:12, | 34:19, 42:10, | mostly 34:4, 34:6. |
| 9:13, 13:3, 24:11, | 46:15, 70:24, | mother 39:23, 43:16, |
| 36:9, 36:10, 43:1, | 89:9, 155:13. | 43:18. |
| 43:2, 43:6, 43:18, | midst 2:12, 8:12, | Motz 163:8. |
| 54:9, 64:22, | 63:3. | mouth 20:24, 104:25, |
| 73:15, 85:8, | mike 17:5, 18:17, | 177:21. |
| 93:13, 95:6, | 46:21, 59:5, | mouthful 173:20, |
| 102:2, 109:11, | 59:11, 63:13, | 178:20. |
| 119:13, 126:21, | 70:14, 133:9, | move 8:4, 81:17. |
| 137:6, 147:6, | 133:13. | moved 7:21. |
| 156:20, 167:8. | minded 30:20, 32:9, | moves 34:23. |
| meaning 45:14. | 48:2, 62:12, | MR. BUSSARD 17:19, |
| means 30:18, | 62:21, 80:22, | 17:23, 19:15, |
| 44:18. | 92:17, 164:9. | 21:17, 22:7, 31:8, |
| meant 42:18, 176:1, | mindedness 46:11, | 46:14, 46:17, |
| 176:18. | 49:18, 82:10, | 46:24, 63:9, |
| Meanwhile 70:25. | 163:21, 164:2. | 71:20, 82:21, |
| measures 8:14. | mindful 193:7. | 93:6, 93:8, 100:8, |
| Medium 117:11, | minds 143:12, | 107:19, 117:22, |
| 117:13, 139:23. | 143:14. | 124:4, 134:22, |
| meet 187:3, | mine 72:10, | 145:4, 154:15, |
| 192:13. | 190:24. | 165:11, 178:13, |
| member 184:5. | minute 16:20, 42:4, | 181:14, 182:9, |
| members 8:23, 8:24, | 58:21, 70:6, | 182:16. |
| 13:18, 15:4, | 88:25, 148:14, | MR. NIETO 18:2, |
| 24:24, 37:2, | 169:13. | 21:23, 22:11, |
| 38:22, 54:21, | mirrors 186:15. | 93:11, 100:11, |
| 66:2, 74:2, 85:20, | mishear 91:24. | 107:22, 117:24, |
| 95:19, 102:14, | misheard 92:1. | 124:7, 134:25, |
| 109:24, 119:25, | misleading 81:7. | 145:7, 145:9, |

| | | |
|----------------------|----------------------|----------------------|
| 154:17, 165:14, | 176:15. | 167:12, 181:3, |
| 178:17, 190:22, | nervousness 92:12. | 181:5. |
| 190:24, 191:3, | new 136:4, 136:25. | Nothing 31:8, 39:18, |
| 191:5, 192:12, | nice 155:14. | 48:6, 48:14, |
| 192:20, 194:5, | nine 166:22. | 60:17, 71:15, |
| 194:9, 194:14. | Nisbet 180:20, | 78:10, 112:15, |
| MR. O'TOOLE 17:16, | 180:25, 182:22, | 129:12, 134:12, |
| 21:15, 22:5, | 183:10, 186:1. | 145:9, 158:11, |
| 48:10, 48:20, | nobody 39:18, 39:19, | 198:15. |
| 48:23, 49:22. | 198:24. | notice 39:1, 155:1, |
| MS. HOFFMAN 17:11. | nodding 18:11. | 194:12, 194:16, |
| multi-step 197:24. | noise 16:15, 28:24, | 197:4, 197:5. |
| multiple 49:16, | 42:1, 58:16, 70:2, | noticed 38:21, |
| 187:21. | 70:4, 79:11, 91:7, | 60:1. |
| murder 51:9. | 99:17, 106:20, | notify 6:6. |
| myself 39:2. | 114:6, 114:7, | notion 30:22. |
| mystery 186:4. | 123:14, 132:16, | November 84:20. |
| . | 132:20, 142:7, | number 10:9, 12:4, |
| . | 153:9, 162:1, | 12:14, 23:17, |
| < N >. | 174:14. | 23:22, 35:15, |
| nail 47:15. | None 59:9, 59:15, | 35:22, 52:23, |
| nailing 61:13. | 60:20, 63:12. | 53:25, 64:11, |
| Name 14:17, 16:3, | Nonetheless 144:5, | 73:3, 84:22, |
| 39:9, 39:15, | 149:1, 152:11, | 87:25, 88:5, 88:6, |
| 87:23, 139:17, | 158:16, 163:17. | 94:13, 94:18, |
| 159:12, 170:11, | nonjuror 180:16. | 101:16, 108:24, |
| 188:25, 194:18, | nonsealed 10:11. | 119:1, 126:9, |
| 200:3, 201:3. | nonverbal 31:16, | 136:19, 146:19, |
| narrow 163:9. | 45:23. | 156:6, 166:16, |
| nationally 52:24. | noon 194:11, 194:17, | 166:19. |
| nationwide 52:21. | 195:5, 199:5, | numerical 4:20. |
| natural 52:1. | 199:9. | . |
| naturally 90:15. | nor 6:4. | . |
| nature 48:25, 159:1, | normal 33:16, | < O >. |
| 195:21. | 180:2. | O'toole 1:33, 12:25, |
| near 2:13, 23:3. | north 33:6. | 17:15, 21:14, |
| necessarily 61:14, | NORTHERN 1:2. | 22:4, 24:8, 36:6, |
| 81:11, 89:19, | northwest 33:11. | 48:8, 48:9, 54:7, |
| 159:8. | note 52:25, 107:9, | 64:21, 73:13, |
| necessary 162:21. | 107:10. | 85:6, 95:3, 102:1, |
| needed 2:19, | noted 20:2. | 109:8, 119:11, |
| 92:23. | notes 13:10, 18:22, | 126:19, 137:4, |
| needing 135:24. | 24:16, 36:19, | 147:4, 156:18, |
| needs 30:4, 43:20, | 54:13, 65:19, | 167:6. |
| 43:24, 81:12, | 73:19, 85:12, | oath 5:8, 5:17, |
| 187:25. | 95:11, 102:6, | 5:18, 6:3, 9:23, |
| negative 173:24. | 109:16, 119:17, | 10:17, 10:19, |
| neither 6:4. | 126:25, 137:11, | 11:4, 35:4, 44:21, |
| nervous 90:15, 92:2, | 147:10, 156:24, | 65:3. |
| 92:4, 92:5, | 162:23, 163:6, | object 9:22, 9:24, |

| | | |
|---|--|---|
| 30:1, 32:23, 81:5, 188:1, 188:8, 197:9. objection 11:5, 30:11, 60:3, 70:12, 81:2, 154:10. objections 59:17, 70:19, 71:13, 197:12, 197:17. objectives 144:7. obligations 6:15. observation 11:1, 15:10, 15:12. observations 32:22, 164:5. observe 15:7. observed 8:3, 15:17, 15:24, 43:13, 164:6. obvious 143:11. obviously 50:2, 191:8. occasion 100:19. occasions 187:21. occur 5:1, 9:2, 49:21, 79:8, 106:17, 114:4, 123:11. occurring 163:13. offense 51:6, 51:9. Officer 8:8, 180:24. officers 8:5. Official 1:47, 199:22. old 150:12. older 88:3, 88:4. Once 4:18, 7:13, 8:7, 13:3, 22:17, 24:12, 32:1, 45:16, 45:21, 48:3, 52:15, 92:12, 92:17, 124:16, 131:25, 142:9, 144:16, 153:13, 178:24, 179:19. one. 8:18, 135:8, | 139:17. open-minded 45:20, 80:19. open-mindedness 31:19. opened 197:20. opening 20:10. opens 197:21. operate 49:13. operating 20:13, 198:23. Operations 182:1. opinion 2:8, 175:14. opportunity 8:11, 80:8, 81:6, 189:23, 190:6, 193:12. optional 20:7. order 2:5, 4:20, 4:22, 4:24, 162:20, 183:18, 187:10, 187:12, 197:10. ordinarily 52:22. ordinary 30:19. originally 3:22. others 15:20, 19:20, 43:15, 63:4, 129:2, 195:9. otherwise 6:15, 7:24, 20:9, 25:7, 37:11, 55:4, 60:2, 66:10, 74:11, 86:3, 96:3, 97:20, 102:23, 110:7, 120:8, 126:2, 127:16, 138:2, 148:1, 157:15, 168:3. ought 44:22, 133:17. outside 15:4, 20:17, 25:6, 29:4, 37:10, 46:7, 55:3, 66:9, 74:9, 86:2, 96:2, 102:22, 106:24, 110:6, 114:4, 120:7, 127:15, 128:20, 132:15, | 138:1, 139:14, 147:25, 157:14, 163:1, 168:2, 179:10. overheard 56:25, 62:7, 134:2. overly 177:23. overreacting 175:12, 175:15. own 31:21, 34:24, 50:23, 164:4. . . < P >. p.m. 83:22. Page 200:3, 201:3. paid 51:13, 177:3. painfully 197:20. painstaking 198:16. palpable 48:2. pandemic 8:13. panel 2:23. paper 19:10, 169:18. papers 30:16. paperwork 35:14, 187:2. paragon 192:8. paranoia 67:22. paranoid 68:11, 68:14. Pardon 35:2. part 4:7, 11:5, 28:20, 32:6, 43:16, 44:4, 70:1, 78:3, 79:7, 99:16, 106:17, 114:4, 115:14, 123:11, 138:25, 142:4, 144:3, 153:6, 161:23, 163:8, 174:10, 191:24, 195:21, 197:25. participants 9:17, 186:25. participate 6:2, 8:25, 15:14, 26:25, 40:4, 56:20, 68:6, |
|---|--|---|

| | | |
|----------------------|---------------------|----------------------|
| 76:14, 89:4, | 167:12. | 179:1, 183:21, |
| 91:10, 97:20, | patience 16:12, | 183:24, 187:22, |
| 104:21, 112:7, | 58:21, 114:13, | 188:22, 195:19, |
| 121:25, 130:11, | 132:22, 165:7. | 195:21. |
| 140:3, 151:13, | patient 16:20, | per 48:16. |
| 160:12, 161:5, | 79:14, 91:12, | perceiving 20:19. |
| 171:21. | 99:21, 106:23, | percent 8:3, |
| participates 5:25, | 123:18, 142:11, | 186:16. |
| 8:15. | 153:15, 162:6, | perception 81:24, |
| participating | 174:22. | 164:17. |
| 100:17. | Paul 170:1, 170:11, | Perfect 11:15, |
| participation 52:16, | 177:24. | 70:17, 155:15. |
| 154:20. | Paul F. Enzinna | perfectly 23:4, |
| particular 2:14, | 1:31. | 53:1, 88:4, |
| 7:13, 8:16, 20:20, | pause 2:12, 13:15, | 186:15. |
| 46:10, 59:25, | 24:21, 36:24, | perform 51:13. |
| 71:16, 171:11, | 54:18, 65:24, | period 81:21, 134:3, |
| 188:17, 198:5. | 73:24, 85:17, | 181:3, 196:24, |
| particularly 50:20, | 95:16, 99:14, | 197:12, 197:16. |
| 80:13, 179:1. | 102:11, 107:10, | permission 184:6, |
| particulars 61:12, | 107:13, 109:21, | 193:9. |
| 171:4. | 115:19, 119:22, | permit 189:15. |
| parties 12:23, 24:5, | 127:5, 137:16, | permits 61:2. |
| 54:5, 64:17, | 147:15, 157:4, | permitted 8:24, |
| 73:10, 80:2, 85:4, | 167:17, 192:21. | 61:7, 93:17, |
| 94:25, 101:22, | paused 52:5. | 184:4. |
| 109:6, 119:9, | pausing 13:13, | Personally 28:1. |
| 126:16, 137:2, | 24:19, 36:22, | perspective 34:6. |
| 147:1, 156:16, | 54:16, 65:22, | persuasive 32:13. |
| 167:4. | 73:22, 85:15, | Peter J. Martinez |
| parts 43:19. | 95:14, 102:9, | 1:25. |
| party 191:1, | 109:19, 119:20, | petition 193:6. |
| 192:5. | 127:3, 137:14, | phase 62:7. |
| pass 74:3. | 147:13, 157:2, | phases 198:4. |
| passed 13:19, 24:25, | 167:15. | phone 15:5, 16:5, |
| 37:3, 54:22, 66:3, | pay 56:2, 62:3, | 25:10, 29:18, |
| 85:21, 95:20, | 62:5, 62:8, | 37:14, 55:7, |
| 102:15, 109:25, | 151:10. | 66:13, 68:13, |
| 120:1, 127:9, | paying 159:10. | 74:14, 86:6, 96:6, |
| 137:20, 147:19, | pending 5:5, | 103:1, 110:10, |
| 157:8, 167:21. | 32:16. | 120:11, 125:21, |
| passing 13:10, | people 5:20, 39:1, | 127:19, 138:5, |
| 24:16, 36:19, | 39:2, 39:14, | 148:4, 157:18, |
| 54:13, 65:19, | 39:22, 43:13, | 168:6. |
| 73:19, 85:12, | 67:20, 68:12, | phones 67:20, |
| 95:11, 102:6, | 130:15, 135:20, | 131:22, 151:8. |
| 109:16, 119:17, | 139:13, 143:12, | photo 143:25, |
| 126:25, 137:11, | 150:4, 151:16, | 191:12. |
| 147:10, 156:24, | 160:7, 163:7, | photographed 25:7, |
| 162:23, 163:6, | 165:1, 171:9, | 37:11, 55:4, |

| | | |
|----------------------|----------------------|----------------------|
| 66:10, 74:10, | 33:4, 71:11, | 160:2, 191:12, |
| 86:3, 96:3, | 81:10, 81:15, | 199:7. |
| 102:23, 110:7, | 81:16, 142:24, | potentially 10:20, |
| 120:8, 127:16, | 144:8, 196:8. | 61:16, 180:20, |
| 138:2, 148:1, | positioning 33:24. | 191:14, 195:8, |
| 157:15, 168:3. | positions 10:19. | 195:9, 197:16. |
| photography 43:11, | positive 83:14. | Powell 105:7, 181:5, |
| 162:18. | possession 25:11, | 182:2, 182:3, |
| photos 42:22, 42:23, | 37:15, 55:8, | 182:12, 182:18. |
| 43:14. | 66:14, 74:14, | practice 9:3, 48:13, |
| physical 88:10, | 86:7, 96:7, 103:2, | 51:15, 192:9. |
| 117:7. | 110:11, 120:12, | preamble 163:3. |
| pick 39:8, 83:15, | 127:20, 138:6, | precise 104:13. |
| 124:19, 135:15, | 148:5, 157:19, | predicted 187:22. |
| 155:4. | 168:7. | predicts 135:21. |
| piece 71:6. | possibility 15:15, | preface 50:1. |
| place 5:4, 5:8, | 27:1, 32:1, 40:5, | prejudice 196:18, |
| 8:14, 100:17, | 56:21, 68:7, | 197:14. |
| 144:7. | 76:15, 89:5, | prejudiced 197:3, |
| placed 10:19, | 97:21, 104:22, | 197:4. |
| 181:25. | 112:8, 115:8, | preliminary 2:16, |
| places 30:5, 175:5, | 122:1, 130:12, | 9:18. |
| 186:9. | 140:4, 151:14, | preparation 34:19. |
| placing 6:3. | 160:13, 171:22, | prepared 183:5, |
| Plaintiff 1:7, | 196:20. | 185:14, 185:23, |
| 1:23. | possible 6:11, | 186:2. |
| plan 182:13, 188:18, | 20:25, 27:23, | presence 13:16, |
| 189:6, 189:7, | 41:6, 57:18, | 24:22, 36:25, |
| 192:11, 198:21. | 61:11, 69:9, | 54:19, 65:25, |
| planning 83:11, | 77:13, 90:12, | 73:25, 85:18, |
| 185:9. | 98:15, 106:2, | 95:17, 102:12, |
| plans 180:9, 186:9, | 113:14, 122:21, | 109:22, 119:23, |
| 187:17, 193:2. | 131:17, 141:6, | 127:6, 137:17, |
| plays 189:14. | 152:16, 165:25, | 147:16, 154:20, |
| plexiglas 33:16. | 173:6, 192:25, | 157:5, 167:18. |
| plural 38:16. | 196:13. | present 9:7, 9:8, |
| point. 47:23, 58:20, | possibly 11:6, 57:1, | 9:10, 9:12, 80:2, |
| 143:20, 173:3. | 77:22, 133:15. | 180:10, 199:4. |
| pointed 30:2, | post 80:7. | presided 12:18, |
| 163:8. | post-verdict 3:3. | 23:24, 35:23, |
| points 10:5, | postponement | 54:1, 64:12, 73:4, |
| 193:22. | 189:24. | 84:23, 94:19, |
| policy 144:6. | potential 14:14, | 101:17, 108:25, |
| popped 191:9. | 26:20, 39:6, | 119:2, 126:10, |
| popping 172:1. | 50:15, 51:2, | 136:20, 146:20, |
| portal 20:6. | 56:15, 68:1, | 156:7, 166:20. |
| portion 132:14. | 75:19, 87:18, | press 8:23. |
| posed 143:8. | 97:13, 104:14, | Presumably 168:24, |
| position 5:19, | 111:22, 121:17, | 191:22, 192:17, |
| 10:18, 10:22, | 129:15, 150:7, | 196:5. |

| | | |
|---------------------|---------------------|----------------------|
| presume 192:13. | 8:15, 8:16, 9:17, | prospect 80:13. |
| Pretty 16:4, 87:10, | 10:8, 47:21, | protect 8:14. |
| 88:21, 116:2, | 71:14, 132:14, | protected 194:25. |
| 171:11, 171:17, | 135:23, 138:25, | protective 184:13, |
| 173:2, 175:6, | 179:15, 180:6, | 184:19. |
| 175:10, 193:10. | 182:14, 182:20, | prove 68:12. |
| prevail 197:22. | 183:19, 185:21, | provide 116:10, |
| prevailed 46:8. | 187:21. | 142:24, 185:1, |
| previous 20:1. | processes 197:21, | 187:10. |
| previously 10:20, | 197:22. | provided 165:24. |
| 92:11, 143:7, | produce 185:22. | provides 46:9. |
| 143:11, 154:9, | produced 187:16. | providing 46:9. |
| 196:6. | professional | public 8:10, 8:19, |
| Prior 12:14, 27:9, | 193:23. | 8:24, 9:1, 10:6, |
| 40:15, 57:4, | Proffer 185:15, | 20:6, 20:8, 20:9, |
| 62:13, 68:20, | 197:7, 197:8. | 20:13, 52:21, |
| 76:24, 81:4, | projected 31:16. | 53:1. |
| 81:21, 89:24, | projecting 170:1. | published 10:9. |
| 98:2, 105:12, | proof 180:6, 199:2, | Pull 125:22, 133:13, |
| 112:21, 122:8, | 199:4. | 155:13. |
| 130:22, 133:18, | prophylactically | pump 125:20. |
| 140:11, 151:24, | 61:5. | purged 80:16, 80:19, |
| 160:20, 162:22, | proposal 19:1. | 143:13. |
| 164:16, 172:7. | propose 14:5, 19:5, | purpose 153:10. |
| privacy 184:19. | 25:23, 29:15, | purposes 5:10, |
| privately 48:16, | 38:4, 55:20, 67:1, | 30:21, 61:4. |
| 106:17, 123:12, | 71:12, 75:1, | pursuant 2:5, |
| 142:5, 153:7. | 86:19, 96:21, | 2:15. |
| Probably 33:12, | 103:15, 111:3, | puts 48:25. |
| 33:13, 33:14, | 120:24, 128:7, | putting 50:9. |
| 34:23, 34:24, | 138:20, 144:25, | . |
| 58:16, 70:2, | 148:17, 158:6, | . |
| 162:2, 169:16, | 164:11, 168:19, | < Q >. |
| 171:17, 173:2, | 175:16, 184:12, | quality 80:14. |
| 178:2, 184:11. | 193:9. | questioned 3:12, |
| probe 20:24, | proposed 18:8, | 3:19, 4:7, 4:24, |
| 49:16. | 18:12, 18:18, | 5:1, 82:4, 111:19, |
| probed 43:20. | 18:23, 18:24, | 112:17, 112:18, |
| problem 20:12, | 18:25, 19:11, | 116:9, 144:9, |
| 44:17. | 19:13, 19:16, | 162:22. |
| procedure 180:3. | 29:24, 30:1, | questioning 3:25, |
| procedures 10:5, | 30:25, 31:21, | 4:18, 45:18, |
| 155:12. | 45:5, 48:5, 63:3, | 115:24, 163:12, |
| proceed 3:18, 4:19, | 63:10, 82:13, | 164:6, 183:20, |
| 4:21, 5:13, 11:4, | 142:21, 162:16. | 186:15. |
| 20:13, 197:2. | proposes 31:13, | quick 164:23. |
| proceeded 165:4. | 162:13. | quietly 142:8. |
| proceeding 3:13, | proposing 49:6, | quite 32:8, 33:25, |
| 5:25, 6:5, 6:14, | 49:23. | 51:4, 82:14, |
| 7:25, 8:11, 8:12, | propound 154:11. | 92:11, 133:12, |

| | | |
|---------------------|----------------------|----------------------|
| 193:10. | 34:20, 34:25, | 61:12, 191:11. |
| quote 30:3, 42:17, | 47:21, 53:7, 84:5, | recollections |
| 43:24, 81:19, | 125:5, 194:4. | 5:15. |
| 143:12, 176:1. | real 68:9, 176:13, | reconsider 11:7. |
| . | 177:3. | reconvene 198:21. |
| . | realize 104:23. | record. 16:24, 21:8, |
| < R >. | really 13:23, 19:19, | 29:9, 42:6, 58:23, |
| race 88:1, 88:9, | 43:14, 46:1, 46:3, | 62:24, 70:8, |
| 139:20, 159:13. | 48:16, 51:13, | 79:17, 91:15, |
| Raise 10:24, 11:13, | 51:25, 56:23, | 99:24, 107:2, |
| 15:12, 23:6, | 57:21, 62:3, | 114:17, 116:5, |
| 34:18, 35:1, 35:3, | 62:16, 68:8, | 117:17, 123:19, |
| 53:9, 65:3, 76:11, | 68:12, 87:23, | 133:1, 134:16, |
| 84:7, 94:2, | 88:6, 97:15, | 142:14, 153:18, |
| 118:12, 136:4, | 112:19, 131:25, | 162:8, 165:9, |
| 146:5, 155:9, | 134:9, 151:7, | 174:24, 177:6, |
| 155:15. | 169:25, 170:21, | 178:7. |
| raising 75:24, | 171:6, 171:10, | recording 125:24. |
| 160:6. | 172:2, 176:15, | records 197:13. |
| rather 80:2. | 176:25, 177:23. | redundant 39:25. |
| rattled 177:1. | reason 19:6, 144:13, | refer 163:24. |
| re-asked 30:4, | 149:15, 149:23, | reference 31:22, |
| 30:6. | 149:24. | 62:10, 163:16, |
| re-orient 116:18. | reasonable 190:6. | 163:23. |
| reach 191:25, | reasonably 198:12. | referenced 16:3, |
| 192:5. | reasons 92:10, | 163:2, 184:7. |
| reached 26:2, 38:8, | 150:5, 154:9. | referred 25:13, |
| 55:24, 67:5, 75:5, | reassured 81:3. | 37:17, 55:10, |
| 86:23, 96:25, | recalled 46:25. | 66:16, 74:16, |
| 103:19, 111:7, | received 25:9, | 78:1, 86:9, 96:9, |
| 121:2, 128:12, | 37:13, 55:6, | 97:13, 103:4, |
| 148:21, 158:10, | 66:12, 74:12, | 110:13, 120:14, |
| 168:23. | 83:5, 86:5, 96:5, | 127:22, 138:8, |
| react 198:13. | 102:25, 110:9, | 139:2, 148:7, |
| reacted 144:10, | 120:10, 127:18, | 150:7, 157:21, |
| 177:20. | 138:4, 148:3, | 158:23, 160:5, |
| reaction 60:18, | 157:17, 163:25, | 168:9. |
| 60:20, 133:15, | 168:5. | referring 14:8, |
| 175:11, 176:20, | recent 154:23. | 26:4, 56:1, 67:8, |
| 176:23, 176:25. | recess 83:12, 84:3, | 76:5, 88:24, |
| reactions 164:7. | 84:4, 125:4, | 105:7, 128:16, |
| read 27:13, 29:19, | 199:1, 199:13. | 175:6. |
| 40:19, 57:8, | reciprocal 193:20. | reflect 8:10, 9:6, |
| 68:24, 77:2, 90:3, | recites 186:14. | 33:2, 43:2, 43:6, |
| 98:5, 105:16, | recognize 39:13, | 50:12, 59:24, |
| 112:25, 122:12, | 64:13, 73:5, 89:6, | 60:3, 80:4, 80:7, |
| 131:3, 140:18, | 135:6, 140:13, | 179:13, 192:7. |
| 152:3, 160:23, | 144:4, 148:22, | reflection 107:14. |
| 169:18, 172:15. | 172:8. | reframed 163:22. |
| ready 10:2, 20:5, | recollection 47:5, | regard 5:22, 44:15, |

| | | |
|---|--|---|
| 51:22, 59:18, 130:13, 160:6, 187:6, 189:20. regarding 14:14, 26:19, 39:5, 56:14, 61:2, 61:7, 67:25, 75:18, 87:17, 97:12, 104:14, 111:22, 121:16, 129:14, 150:6, 162:23. regardless 60:14, 61:3, 61:8. regular 7:8, 52:9. regularly 50:18. reiterate 27:18, 41:1, 57:14, 69:4, 77:8, 90:8, 98:11, 105:22, 113:7, 122:17, 131:9, 172:21. related 160:16, 163:10. relation 163:13, 177:19, 186:21. relations 6:12. relationship 5:12, 6:16, 185:4. Relatively 140:23, 159:14, 159:15. relayed 186:3. released 182:19, 196:22. relevance 49:7. remain 28:5, 30:17, 34:25, 41:10, 43:7, 49:23, 50:4, 52:1, 57:24, 69:12, 78:11, 90:18, 98:19, 106:6, 113:18, 122:25, 131:23, 141:10, 152:20, 161:11, 173:9. remainder 25:18, 37:23, 55:15, 66:21, 74:21, 86:14, 96:14, 103:11, 110:18, 120:19, 128:3, | 138:13, 148:12, 158:1, 168:15, 180:9. remained 19:2, 32:8, 144:17. remaining 44:16. remains 183:9. remand 163:1, 163:9, 198:15. remanded 3:2, 84:1, 199:12. remembered 42:17. remembering 171:25. remembrance 129:20. Remind 52:25, 180:18. reminded 30:2, 30:7, 43:20. Remmer 2:8, 2:15, 2:19, 2:24, 3:4, 50:16, 181:8, 198:19. Remmer-type 163:5. render 51:10. renders 61:16. repeat 78:21, 88:18, 141:20. repetitively 21:19. rephrase 88:16. replace 9:5, 71:1. replacing 43:4. report 25:9, 37:13, 43:16, 55:6, 66:12, 74:12, 86:5, 96:5, 102:25, 110:9, 120:10, 127:18, 138:4, 148:3, 157:17, 168:5, 171:17, 185:20, 186:2, 186:15, 186:16. reported 14:17, 14:22, 26:23, 39:17, 43:12, 43:16, 56:18, 68:4, 88:20, | 88:22, 97:17, 104:18, 112:5, 121:20, 121:23, 129:19, 129:21, 133:19, 140:1, 151:6, 171:13, 171:14. Reporter 1:47, 18:10, 199:22. reporting 164:25. reports 185:22, 185:24, 186:8, 186:16, 186:20, 186:23, 187:7, 187:8, 187:16, 187:20, 188:5. represented 24:7, 24:8. Representing 36:4, 36:6, 36:8, 36:9, 64:18, 64:20, 64:21, 64:22, 73:12, 73:13, 73:14, 102:2, 109:7, 109:8, 109:10, 109:11, 126:18, 126:19, 126:20, 137:3. represents 13:1, 24:9, 54:8, 85:7, 95:1, 95:2, 95:4, 119:12, 137:5, 147:5, 156:19, 167:7. request 2:20, 3:15, 7:11, 20:1, 44:15, 59:19, 59:22, 80:4, 88:15, 132:22, 142:20, 143:6, 143:20, 143:23, 153:24, 154:4, 175:24, 177:13, 177:14, 186:11. requested 2:15, 2:25, 18:3, 19:22, 19:24, 185:20, 198:10. requesting 154:5, 164:14. |
|---|--|---|

| | | |
|--|---|---|
| requests 3:17, 46:18, 92:10. | 154:22. | review 198:17. |
| required 20:7, 183:10. | response. 101:20. | revise 60:1. |
| requires 189:24. | responses 45:21, 175:3, 175:9. | revisit 79:21. |
| reserve 18:6, 162:12. | responsibility 184:20, 193:24. | Rights 194:25. |
| residence 5:3. | responsible 145:18. | rise 92:12, 143:10. |
| residing 15:11. | rest 4:25, 13:16, 24:22, 36:25, | road 187:21. |
| resolved 196:25. | 43:23, 54:19, 65:25, 73:25, | roaming 151:19. |
| respect 5:6, 9:20, 10:10, 32:12, 48:1, 51:2, 52:21, 59:18, 60:4, 60:10, 71:11, 71:14, 81:16, 83:6, 145:20, 154:5, 154:7, 163:5, 175:25, 179:24, 188:14, 195:19, 196:15, 196:18, 196:20. | 85:18, 95:17, 102:13, 109:22, 119:23, 127:6, 137:17, 147:16, 157:5, 167:18, 178:1. | rooted 195:22. |
| respond 25:25, 38:5, 55:22, 63:22, 67:3, 75:2, 86:20, 96:23, 103:16, 111:4, 120:25, 128:10, 138:21, 148:18, 158:7, 168:21, 193:12. | restate 99:6. | routine 50:16, 50:17. |
| responded 49:8. | restricting 187:10. | row 116:18, 116:19. |
| responding 27:7, 40:13, 52:14, 57:3, 68:18, 76:22, 83:2, 89:22, 97:25, 100:16, 105:10, 112:20, 122:6, 130:21, 135:9, 140:9, 145:17, 151:23, 154:25, 160:18, 165:22, 172:5, 186:25. | restrictions 193:4. | RPR 1:46, 199:16. |
| response 72:2, 79:21, 79:23, 79:24, 79:25, 80:1, 80:3, 83:4, 92:10, 92:25, 100:15, 108:2, 118:6, 124:12, | resume 83:22, 83:25, 180:2. | Rule 7:12, 60:19, 61:2, 80:10, 144:7, 193:7, 196:15, 197:11. |
| | retaining 32:9, 179:25. | ruled 2:23. |
| | return 22:12, 52:15, 161:5, 181:18. | Rules 136:4, 187:12, 194:21, 194:23. |
| | returned 83:18, 84:2, 144:11, 179:14. | ruling 11:3, 11:7, 45:6, 47:4, 61:9, 61:17. |
| | returner 93:20. | rulings 19:10, 143:7. |
| | returning 22:16, 52:12, 63:20, 72:2, 83:1, 83:4, 100:15, 100:18, 108:2, 118:6, 124:12, 145:15, 165:19, 169:21, 178:24. | run 6:15, 185:21, 191:13, 191:14, 195:2. |
| | revealed 25:12, 37:16, 55:9, 66:15, 74:15, 86:8, 96:8, 103:3, 110:12, 120:13, 127:21, 138:7, 148:6, 157:20, 168:8. | running 193:3. |
| | revealing 92:11. | . |
| | | . |
| | | < S >. |
| | | sacred 184:19. |
| | | sadly 51:3. |
| | | safe 184:11. |
| | | safety 27:5. |
| | | sat 87:24. |
| | | satisfied 2:18, 32:13, 32:15. |
| | | save 153:23. |
| | | saw 15:4, 20:17, 33:25, 38:24, 39:4, 39:19, 47:11, 87:13, 97:2, 105:4, 150:22, 150:24, 163:11, 169:22, 185:12. |
| | | saying 15:2, 15:17, |

| | | |
|----------------------|--------------------|---------------------|
| 28:14, 31:24, | 120:3, 127:11, | 118:24, 126:8, |
| 38:23, 49:8, | 137:22, 147:21, | 136:14, 136:17, |
| 62:15, 78:7, | 157:10, 167:23, | 139:18, 146:17, |
| 122:4, 129:10, | 175:15, 191:19. | 156:1, 156:4, |
| 170:8, 170:18, | selected 7:23. | 166:18, 181:2. |
| 170:23, 171:16, | selection 13:12, | serving 3:20, 4:4, |
| 174:9, 175:9, | 24:18, 36:21, | 4:9, 4:11, 4:13, |
| 193:18. | 54:15, 65:21, | 4:19, 12:2, 13:6, |
| says 162:14, 187:24, | 73:21, 85:14, | 18:4, 105:8, |
| 193:19. | 95:13, 102:8, | 141:3. |
| scared 97:11, | 109:18, 119:19, | session 181:4, |
| 134:12. | 127:2, 137:13, | 198:23. |
| scene 33:22. | 147:12, 157:1, | set 2:7, 3:12, |
| scope 163:1, 186:8, | 167:14. | 112:3. |
| 186:12, 186:17, | selectively 49:3. | several 39:2, |
| 187:9, 187:11, | self-assurance | 143:11. |
| 190:1, 190:7, | 47:25. | sexual 51:9. |
| 197:10. | send 8:9. | shape 61:18, |
| search 196:12. | sentenced 2:22. | 117:7. |
| seat 11:22, 11:25, | sequence 197:2. | share 180:8. |
| 23:2, 50:18, 53:6, | serious 13:23, | shared 14:13, |
| 116:22, 155:9. | 18:20, 19:16, | 77:19. |
| seated 2:2, 2:4, | 20:21, 21:2, | sheds 190:4. |
| 3:7, 9:14, 33:5, | 43:14, 50:25, | shelf 116:22. |
| 33:7, 33:12, 35:1, | 51:6, 107:14, | shift 51:15. |
| 45:25, 116:18, | 134:4. | shifted 92:15. |
| 117:4, 136:3, | serious. 133:21. | short 81:14. |
| 136:5. | seriousness 118:8. | shorter 83:15, |
| Second 18:21, 18:22, | serve 4:17, 19:7, | 117:9. |
| 18:23, 18:24, | 28:10, 41:14, | shot 61:12. |
| 19:6, 42:24, 53:7, | 45:20, 51:10, | shoulder 24:10, |
| 80:14, 115:18, | 58:4, 69:16, | 33:18, 33:21, |
| 115:19, 116:14, | 78:18, 78:23, | 34:2, 36:9, 64:25, |
| 133:24, 134:7, | 90:22, 92:19, | 108:5. |
| 172:12, 180:20, | 98:23, 106:10, | shouldered 145:20. |
| 181:25. | 113:22, 123:4, | shouldering 135:9. |
| Security 8:5, 8:8, | 124:16, 132:3, | shown 198:15. |
| 180:23. | 141:3, 141:14, | shows 194:21. |
| seeing 15:1, 20:17, | 143:17, 145:21, | shred 195:22. |
| 159:24. | 152:24, 158:12, | sic 163:17. |
| seek 5:7. | 161:16, 165:3, | side 6:8, 6:21. |
| seem 128:22. | 173:13. | sides 28:12, 41:16, |
| seemed 60:13, 115:7, | served 3:10, 3:23, | 58:8, 69:20, 79:2, |
| 160:8. | 4:5, 12:13, 12:15, | 91:1, 99:2, 99:11, |
| Seems 59:7, 60:9, | 23:16, 23:20, | 106:14, 114:1, |
| 163:9, 187:7. | 35:16, 35:20, | 123:9, 132:7, |
| seen 25:2, 37:5, | 53:24, 64:10, | 141:18, 142:1, |
| 54:24, 66:5, 74:5, | 73:2, 84:21, | 153:4, 161:20, |
| 85:23, 95:22, | 94:12, 94:16, | 173:18, 174:3. |
| 102:17, 110:2, | 101:14, 108:22, | signaled 43:2. |

| | | |
|----------------------|---------------------|---------------------|
| signaling 43:6. | 148:4, 157:18, | 158:25, 163:10. |
| signals 45:17. | 168:6. | Specifically 25:16, |
| significance 82:8, | Smith 10:17, 11:16, | 26:14, 37:21, |
| 82:9. | 20:5, 20:10, | 38:20, 42:23, |
| significant 13:22, | 22:18, 35:5, 43:1, | 43:10, 43:11, |
| 18:21, 20:22, | 70:25, 83:16, | 55:13, 61:10, |
| 20:23, 21:3, 25:2, | 84:5, 124:24, | 66:19, 74:19, |
| 30:19, 32:6, 37:5, | 179:14, 181:23, | 86:12, 96:12, |
| 45:14, 54:24, | 182:19. | 103:7, 110:16, |
| 66:5, 74:5, 85:23, | soft 18:17. | 120:17, 127:25, |
| 95:22, 102:17, | soldier 47:18. | 138:11, 142:23, |
| 110:2, 120:3, | Somebody 39:23, | 148:10, 157:24, |
| 127:11, 137:22, | 56:2, 56:12, | 168:12, 169:19, |
| 147:21, 157:10, | 56:13, 56:25, | 170:20, 170:22, |
| 167:23, 179:25. | 57:1, 62:6, 87:23, | 171:9. |
| silenced 10:12. | 97:3, 104:19, | specificity 82:5. |
| silent 16:5, | 105:3, 170:23, | specifics 121:13. |
| 49:23. | 171:16, 195:22. | spectators 165:1. |
| similar 92:10, | somehow 6:14, | speculate 138:22, |
| 142:21, 197:11. | 190:4. | 170:17. |
| similarly 188:13. | sometime 3:23. | speculating |
| sincerely 34:11, | sometimes 33:9, | 195:14. |
| 63:20. | 47:14, 106:20, | speculation 152:12, |
| single 81:13. | 173:21. | 195:20. |
| singular 38:17. | somewhere 33:18, | speed 34:23. |
| sit 4:6, 144:4, | 39:11. | spoke 25:4, 37:8, |
| 144:12, 148:23, | soon 196:13. | 46:19, 55:1, 66:7, |
| 152:9, 155:11, | sooner 196:14. | 74:7, 85:25, |
| 168:25. | sophisticated | 95:25, 102:20, |
| sitting 33:3, 62:18, | 45:12. | 110:4, 114:23, |
| 75:22, 83:13, | Sorry 21:18, 34:19, | 120:5, 127:13, |
| 116:15, 128:20, | 39:15, 56:22, | 137:24, 147:23, |
| 128:23, 169:16, | 88:18, 97:24, | 157:12, 167:25. |
| 193:18. | 110:22, 126:4, | spot 49:1, 50:9. |
| situated 33:23. | 129:7, 129:16, | squarely 185:19. |
| size 117:11, 117:13, | 130:1, 130:4, | stab 115:4. |
| 139:22. | 189:18, 190:22. | staff 7:21, 8:5, |
| skin 88:12, 112:1, | sorted 20:12. | 8:22, 13:24, 25:3, |
| 117:11, 170:15. | sound 142:6. | 37:6, 52:23, |
| slash 190:25, | sounding 39:25. | 54:25, 66:6, 74:6, |
| 191:24. | source 190:20. | 85:24, 89:15, |
| slightest 125:23. | south 33:5, 33:7, | 89:17, 92:13, |
| slightly 163:22. | 39:11. | 95:23, 102:19, |
| small 117:7. | spark 89:3. | 110:3, 120:4, |
| smart 25:10, 29:18, | speaking 32:19, | 127:12, 129:25, |
| 37:14, 55:7, | 34:12, 48:14. | 137:23, 147:22, |
| 66:13, 74:13, | special 4:25, 8:13, | 157:11, 167:24. |
| 86:6, 96:6, 103:1, | 51:12. | staging 7:17. |
| 110:10, 120:11, | specific 19:16, | stairway 160:10. |
| 127:19, 138:5, | 59:25, 71:12, | stand 6:22, 19:20, |

| | | |
|---------------------|----------------------|----------------------|
| 33:8, 33:19, | 193:19. | 189:22. |
| 71:13, 124:25, | stay 48:24, 62:17, | sugar 126:3, |
| 186:14. | 70:14, 71:9. | 126:6. |
| standard 9:3. | stayed 45:11, | suggest 14:22, 18:7, |
| standing 6:9, 9:24, | 88:7. | 26:22, 39:16, |
| 10:17, 10:24, | steered 31:23. | 56:17, 60:13, |
| 11:2, 11:8, 59:22, | steering 61:5. | 68:3, 88:16, |
| 70:12, 70:19, | stenographic | 88:19, 97:16, |
| 153:24, 154:10, | 199:17. | 104:17, 112:4, |
| 183:17. | step 50:7. | 121:19, 121:22, |
| stands 196:16. | step-by-step | 129:18, 139:25, |
| start 27:9, 38:16, | 198:17. | 151:4, 151:5, |
| 39:25, 40:15, | steps 34:19, | 171:12, 184:24. |
| 47:22, 57:4, | 193:13. | suggested 26:7, |
| 68:20, 76:24, | stop 6:24, 65:2, | 38:12, 56:4, |
| 89:24, 98:2, | 83:16, 92:4, | 67:10, 75:9, 87:2, |
| 105:12, 112:22, | 196:2. | 97:5, 97:19, |
| 122:8, 130:23, | stopped 132:9, | 103:24, 111:10, |
| 140:11, 151:25, | 132:12. | 121:6, 128:19, |
| 160:20, 172:7, | store 81:8. | 139:5, 149:8, |
| 193:3. | story 80:12. | 159:2, 169:10, |
| started 121:13, | straight 35:14. | 169:23. |
| 131:21, 176:12. | stranger 51:1. | suggesting 50:1, |
| Starting 12:23, | Street 1:48, 194:22, | 50:5, 80:17. |
| 54:5, 119:9, | 194:24. | suggestion 44:4, |
| 126:16, 147:1, | stressed 34:7, | 61:14, 62:2. |
| 156:16. | 126:1. | suggestions 3:16, |
| starts 70:15, | strike 184:17. | 3:17, 70:20. |
| 144:5. | strikes 45:11. | suggests 61:6. |
| State 5:20, 12:11, | subject 51:8, | summons 22:16, |
| 62:18. | 184:15. | 52:15, 63:22, |
| statement 9:23, | submission 195:4. | 72:3, 83:2, |
| 29:16, 29:19, | subpoena 181:18, | 100:15, 100:17, |
| 29:21, 47:1, | 181:24, 181:25, | 108:3, 118:7, |
| 79:24, 104:11, | 182:13, 182:19, | 124:12, 135:9, |
| 171:2. | 182:25, 183:9, | 145:18, 154:23, |
| statements 14:10, | 183:14, 183:16. | 155:1, 165:23. |
| 26:10, 38:15, | subpoenaed 182:22, | supervising 8:22. |
| 38:18, 56:7, | 182:23, 183:6. | Supervisor 182:1, |
| 67:13, 75:12, | subsequent 7:16, | 186:23. |
| 87:5, 97:7, 104:2, | 170:25. | supplant 9:5. |
| 111:13, 121:9, | Subsequently 2:21, | supplied 31:15, |
| 128:24, 135:22, | 4:14, 19:9. | 45:8, 46:9, 61:16, |
| 139:8, 149:11, | substance 29:19. | 65:10. |
| 159:5, 170:4, | substantial 143:9, | support 160:8. |
| 186:19, 186:20. | 196:24. | suppose 49:8, |
| stating 159:19. | substantive 187:3. | 185:11, 188:9. |
| status 3:25, 32:15, | substitute 43:4. | supposed 15:11, |
| 179:25, 180:15, | suddenly 45:2. | 150:22. |
| 183:3, 185:19, | sufficient 181:8, | Supreme 2:8. |

| | | |
|----------------------|----------------------|---------------------|
| surgical 51:5. | technology 198:22. | 197:10, 197:14. |
| surprise 52:3, | telephone 10:6, | Thanks 22:17, 72:6, |
| 187:6, 187:13, | 10:9, 10:12, | 135:5. |
| 198:11. | 25:14, 37:18, | THE CLERK 10:3, |
| surprised 51:23, | 55:11, 66:17, | 10:15, 11:17, |
| 189:15. | 74:17, 86:10, | 11:22, 23:11, |
| suspect 112:19. | 96:10, 103:5, | 35:6, 35:11, 53:8, |
| suspected 111:16, | 110:14, 120:15, | 53:15, 65:8, |
| 112:14. | 127:22, 138:9, | 72:10, 72:18, |
| suspicion 187:5. | 148:8, 157:22, | 83:20, 84:12, |
| suspicious 112:15, | 168:9. | 94:2, 94:7, 101:5, |
| 116:1. | telex 6:25, 9:2, | 108:15, 118:12, |
| sustain 30:11. | 9:4, 10:12, 43:3, | 118:17, 125:11, |
| Swear 53:7, 65:2, | 70:22, 71:1. | 136:6, 136:11, |
| 136:5. | ten 33:12, 45:7. | 146:5, 146:10, |
| Swiss 5:6, 6:4, | tended 169:17. | 155:9, 155:20, |
| 10:21, 196:20. | term 30:21, 44:18, | 166:11. |
| switch 48:17. | 176:6. | THE WITNESS 22:19, |
| Switzerland 5:3, | terms 3:21, 10:20, | 22:23, 23:1, |
| 5:13, 179:18. | 31:20, 47:11, | 34:15, 34:21, |
| swore 50:10. | 49:24, 61:13, | 35:2, 52:13, |
| sworn 6:4, 6:22, | 70:20, 115:18, | 52:18, 64:1, 64:5, |
| 11:19, 23:8, 35:8, | 164:24, 176:8, | 64:8, 64:15, |
| 53:12, 65:5, | 180:9, 193:5, | 65:11, 72:6, |
| 72:15, 84:9, 94:4, | 198:4, 199:7. | 93:25, 94:6, |
| 101:2, 108:12, | terribly 172:9. | 100:23, 101:8, |
| 118:14, 125:8, | Test 43:5, 49:17, | 135:18, 135:25, |
| 136:8, 146:7, | 71:7. | 146:2, 166:5, |
| 155:17, 166:8. | testified 11:20, | 179:9. |
| . | 23:9, 35:9, 53:13, | themselves 44:4, |
| . | 65:6, 72:16, | 50:24, 51:12. |
| < T >. | 84:10, 94:5, | They'll 6:21, 6:22, |
| T. 1:46, 199:21. | 101:3, 108:13, | 7:17. |
| table 72:7. | 118:15, 125:9, | They've 8:7, 186:5, |
| tag-team 48:19. | 136:9, 146:8, | 197:8, 198:10, |
| taint 183:18. | 155:18, 166:9. | 199:11. |
| taken. 84:4, | testify 61:7, | Thinking 10:23, |
| 125:4. | 182:20, 182:23, | 134:6, 174:8, |
| Talked 89:13, 115:8, | 185:10, 185:11, | 178:3. |
| 129:22, 130:1, | 185:12, 186:9, | third 4:5, 6:12, |
| 151:16, 163:15, | 188:7. | 43:22, 104:8, |
| 163:24, 170:16, | testifying 5:18, | 104:19. |
| 187:23. | 9:22, 31:17. | third-hand 104:7. |
| task 143:10, | testimony 6:4, 32:6, | thorough 144:15. |
| 180:1. | 33:4, 47:8, 61:2, | thoroughly 6:10. |
| team 193:1. | 80:20, 179:19, | though 32:7, 34:2, |
| technical 53:3. | 179:22, 180:21, | 47:24, 60:9, |
| technically 20:7, | 181:6, 186:17, | 115:8, 119:4, |
| 144:4. | 187:9, 189:19, | 141:22, 150:24, |
| technique 51:20. | 192:22, 197:9, | 176:16, 192:5. |

| | | |
|---------------------|----------------------|----------------------|
| thoughts 180:8. | 33:8, 34:24, | typically 178:2. |
| three 4:10, 9:6, | 35:18, 68:16, | . |
| 34:12, 42:1, | 141:4, 148:24, | . |
| 52:12, 71:7, | 152:9, 161:6, | < U >. |
| 76:17, 129:2, | 169:6. | ultimate 49:20. |
| 129:7, 135:10, | truly 184:19. | ultimately 82:6, |
| 145:17, 154:21, | trusted 177:1. | 82:11, 148:23, |
| 175:3. | truthful 65:10. | 158:12, 169:1, |
| throughout 32:3, | try 20:24, 49:15, | 197:22, 198:18. |
| 33:16. | 61:11, 62:16, | umbrella 179:24. |
| thrust 194:1. | 116:11, 141:22, | uncertain 193:3. |
| timing 60:9, 61:3, | 144:9, 173:24, | uncharacteristically |
| 61:8, 61:13. | 176:19, 192:13, | 176:13. |
| together 31:20, | 198:21. | uncomfortable |
| 67:20, 183:10, | trying 39:20, 56:23, | 39:3. |
| 191:20. | 62:17, 173:22, | understand 13:21, |
| Tomorrow 5:1, 5:4, | 181:7, 184:16, | 16:17, 25:1, |
| 5:9, 5:19, 6:6, | 190:1, 193:5, | 31:18, 37:4, |
| 6:18, 179:16, | 194:20. | 54:23, 66:4, 74:4, |
| 180:3, 198:22, | turf 51:3. | 81:10, 85:22, |
| 198:23. | Turn 6:25, 11:14, | 95:21, 96:17, |
| tone 34:3, 48:4, | 16:25, 17:5, 23:2, | 102:17, 110:1, |
| 194:1. | 29:3, 34:17, 36:7, | 112:9, 120:2, |
| took 10:20, 31:25, | 42:2, 70:1, 79:10, | 127:10, 137:21, |
| 181:3. | 91:7, 99:17, | 147:20, 157:9, |
| topic 51:16, 92:12, | 99:18, 123:13, | 158:20, 162:20, |
| 158:19, 160:15, | 132:16, 142:6, | 167:22, 192:3. |
| 164:10. | 153:9, 153:13, | understanding 30:20, |
| topics 144:25, | 174:13, 180:4. | 45:13, 191:15. |
| 187:14. | turned 114:7, | understandings |
| total 31:25. | 186:5. | 5:11. |
| totality 175:8, | turning 162:1. | understands 45:14. |
| 176:23, 189:20, | turns 34:10, 46:2. | understood 163:4. |
| 189:25. | twice 131:25. | underway 7:24, |
| touched 187:15, | twists 46:2. | 135:23. |
| 191:10. | two 2:23, 8:17, | undue 30:5. |
| towards 79:24. | 18:18, 32:24, | Unfortunately |
| tradition 50:14. | 48:15, 60:15, | 191:23, 195:1. |
| Transcript 1:16, | 61:23, 70:16, | unique 6:7. |
| 80:6, 175:8, | 71:7, 83:24, | unit 70:22. |
| 199:17. | 111:23, 114:23, | Unless 49:18, 59:24, |
| transitioned 3:25. | 115:8, 129:2, | 154:6. |
| transmitted 8:20. | 180:15. | unlikely 183:4. |
| tread 51:3. | two-question | Unquestionably |
| treaty 5:11, 6:15. | 49:25. | 82:3. |
| trials 47:14. | two-step 49:24, | unquote 30:3, |
| trick 173:19, | 50:6. | 176:1. |
| 173:22. | two-way 194:22, | unsure 184:9. |
| trouble 197:19. | 194:24. | until 7:12, 12:12, |
| true 23:22, 23:25, | type 25:10, 66:13. | 59:14, 60:17, |

| | | |
|----------------------|--------------------|----------------------|
| 112:16, 141:3, | 55:10, 66:16, | watching 39:21, |
| 183:19, 191:9, | 74:16, 86:9, 96:9, | 159:23, 162:19, |
| 192:21, 198:17, | 103:4, 110:13, | 163:17. |
| 199:1. | 120:14, 127:21, | waters 193:23. |
| upper 33:24. | 128:22, 138:8, | website 10:10. |
| useful 116:9. | 148:7, 157:21, | Wednesday 194:11, |
| using 61:3, | 168:8. | 194:16, 195:5, |
| 132:15. | videotaping 15:6. | 199:6, 199:9. |
| uttered 80:7. | view 8:11, 32:7, | weeks 13:9, 24:15, |
| . | 32:12, 189:21, | 36:18, 54:12, |
| . | 189:22. | 65:18, 73:18, |
| < V >. | views 34:3. | 85:11, 95:10, |
| vacated 196:22. | violation 10:21. | 102:5, 109:15, |
| Vaguely 67:9. | violent 51:8. | 119:16, 126:24, |
| vagueness 82:3. | virtue 80:20. | 137:10, 147:9, |
| various 134:2. | visual 31:17, | 156:23, 166:22, |
| verbal 101:20. | 32:22. | 167:11, 197:1. |
| verbatim 186:14. | voice 12:1, 18:17, | weigh 189:20. |
| verdict 26:2, 38:8, | 34:4. | welcome 16:11, |
| 55:24, 67:6, 75:5, | voir 13:12, 24:18, | 16:23, 52:13. |
| 86:23, 91:23, | 36:21, 50:15, | well-being 8:14, |
| 96:25, 103:19, | 54:15, 65:21, | 27:5. |
| 111:7, 121:3, | 73:21, 85:14, | well-informed |
| 128:12, 144:11, | 95:13, 102:8, | 93:1. |
| 148:22, 149:3, | 109:18, 119:19, | west 33:8. |
| 152:13, 158:10, | 127:2, 137:13, | whatever 45:19, |
| 158:19, 161:5, | 147:12, 157:1, | 68:14, 97:22, |
| 168:23, 169:6. | 162:23, 163:8, | 105:1, 135:22, |
| verified 18:9. | 167:14. | 184:18, 198:13. |
| vernacular 176:20. | volume 17:5, 34:3. | white 114:7, |
| versus 2:3, 2:4, | voluntarily 5:25, | 132:20. |
| 2:8, 12:4, 12:13, | 6:2, 6:3. | whole 77:20, 80:12, |
| 23:17, 23:21, | vs 1:8. | 80:13, 88:7. |
| 35:15, 35:21, | . | willing 93:21, |
| 53:20, 53:24, | . | 124:16, 145:21. |
| 64:7, 64:11, | < W >. | willingly 145:21. |
| 72:23, 73:2, | W. 1:48. | willingness 108:5. |
| 84:18, 84:21, | wait 179:10, | wind 199:3. |
| 94:13, 94:17, | 179:11. | window 196:7. |
| 101:12, 101:15, | walk 75:17. | Winstone 180:19. |
| 108:23, 118:25, | walked 39:19. | wiped 143:14. |
| 126:8, 136:18, | walking 15:3, | wire 125:19. |
| 146:18, 156:6, | 15:10. | wish 180:6, |
| 166:19. | wanted 125:21, | 180:10. |
| via 5:1, 10:6, | 125:23. | withdraw 11:1, 63:6, |
| 198:24. | warrant 51:12. | 175:18. |
| victim 51:8. | watch 8:19, 51:17, | within 8:4, 186:7, |
| victims 50:23. | 53:2. | 186:12, 194:11, |
| video 5:2. | watched 31:13, | 196:7. |
| videos 25:13, 37:17, | 31:14, 45:17. | without 11:4, 13:13, |

| | |
|----------------------|--------------------|
| 20:13, 23:4, | 198:23. |
| 24:19, 30:18, | works 70:17, |
| 36:22, 46:7, | 198:8. |
| 54:16, 65:22, | worried 39:22, |
| 73:22, 80:21, | 111:17, 115:23. |
| 81:5, 85:15, | written 173:20, |
| 92:19, 92:20, | 186:15, 186:20. |
| 95:14, 102:9, | wrote 141:22. |
| 109:19, 119:20, | . |
| 127:3, 137:14, | . |
| 147:13, 157:2, | < Y >. |
| 167:15, 184:6, | years 34:12, 42:2, |
| 193:8. | 52:12, 63:21, |
| witness/juror | 76:17, 83:1, |
| 92:11. | 93:18, 101:12, |
| witnesses 71:14, | 129:8, 135:10, |
| 179:14, 179:22, | 145:17, 154:22, |
| 180:7, 180:10, | 191:1, 192:8. |
| 180:14, 182:21, | young 159:14, |
| 185:8, 185:16, | 159:15, 160:5, |
| 185:18, 185:22, | 163:16, 164:5. |
| 186:7, 187:9, | younger 117:10. |
| 188:6, 195:8, | yourself 14:21, |
| 195:15, 196:14, | 26:22, 39:16, |
| 197:6, 197:8, | 56:17, 68:3, |
| 199:8, 199:11. | 88:16, 88:19, |
| woman 129:7, 129:22, | 97:16, 104:17, |
| 130:16, 164:5. | 112:4, 121:19, |
| wonder 39:23, 48:8, | 121:22, 129:18, |
| 48:20, 134:11. | 139:25, 151:5, |
| wondered 43:15. | 171:12. |
| wondering 130:20, | Yup 166:24, 167:2, |
| 133:16. | 174:17, 174:23. |
| word 19:16, 20:20, | . |
| 30:20, 31:23, | . |
| 31:24, 45:14, | < Z >. |
| 48:24, 129:23, | zero 82:11. |
| 176:18. | zeroed 47:9. |
| words 19:19, 20:22, | zeroing 52:8. |
| 20:23, 32:11, | Zoom 5:2, 5:9, |
| 48:3, 80:7, | 179:18, 198:24. |
| 104:25, 115:22, | |
| 115:25, 139:12, | |
| 139:13, 177:21. | |
| work 3:7, 20:11, | |
| 144:3. | |
| worked 186:24, | |
| 192:7. | |
| working 52:24, | |
| 189:10, 191:19, | |